UNIVERSITY OF GOTHENBURG
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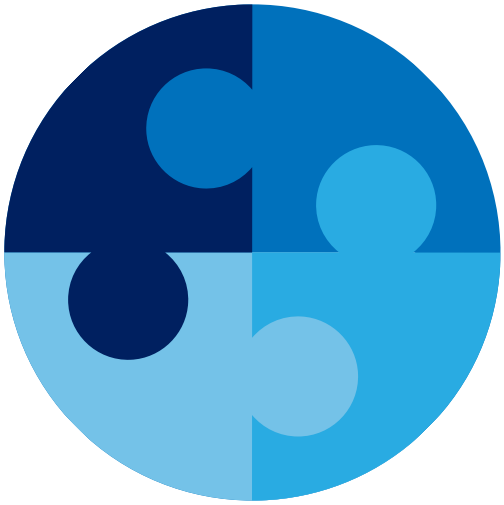
Piecing the Puzzle:

Restorative Justice with Children and Young Offenders in Scandinavia, an Interview Study with Professionals.



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ABSTRACT

Title: Piecing the Puzzle: Restorative Justice with Children and Young Offenders in Scandinavia, an Interview Study with Professionals.
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Key words: Restorative Justice, Children and Young Offenders, Victim Offender Mediation, Youth Punishment, Restorative Processes, Social Work, Scandinavian Justice Systems.

The modern roots of *restorative justice* in Scandinavia go back to the emergence of the mediation movement in Norway in the mid 1970s (Miers, 2001), a process that reached Sweden in the late 1980s (Wahlin, 2005). Victim Offender Mediation (VOM) in Sweden, and Youth Punishment (YP) in Norway, are some of the processes based on the primary components of restorative justice. This means that emphasis is on addressing the consequences of the offense through the involvement of those who have a stake in the specific offense (Marshall, 1999; Zehr, 2015).

The aim of this study was to explore and gain knowledge about professionals' perspectives on the elements and conditions that enable restorative justice to be implemented with children and young offenders in Scandinavia. Through the perspective of professionals who have worked with VOM and YP, this study is aimed at exploring the key pieces that make possible to carry out these restorative processes (RP). For this purpose, qualitative, semi-structured and individual interviews were conducted with six professionals with practical experience from working with VOM and YP with children and young offenders in Sweden and Norway. Thematic analysis, an interpretative orientation and a phenomenological approach guided the analysis of the empirical data.

The findings led to the identification of four key elements that facilitates the implementation of restorative justice with children and young offenders in Scandinavia: the *awareness of theory* which concern the command of theoretical concepts, legal and practical knowledge that the professionals have on restorative justice; the *process conditions* that professionals identified as requirements to be met during the practice in order to establish favorable conditions for the development of the process; the *stakeholders' wills* made up of socio-participatory elements that are considered by professionals as necessary for the implementation of restorative justice; and the *Scandinavian opportunity* characterized by the exceptional community will, lenient justice systems and a more humanitarian criminal policy that provides to the region with ideal socio-political conditions to implement restorative practices. Professionals, offenders, victims, and support networks are interdependent through these key pieces that make up the Scandinavian puzzle.

The study concludes with some recommendations and practical implications for offenders, victims, and professionals. It is necessary to expand the research within the social work field in order to integrate stakeholders' perspectives and find strategies that increase their willingness to participate in the processes. Future studies should address the possibility for offenders and victims to further guarantee and enhance their access to RP regardless of the will of the direct counterpart. Further exploring the experiences of social workers engaged in restorative justice may bring a complementary perspective to the existing body of literature coming from social disciplines such as criminology and the legal field.

CONTENTS

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"There can be no keener revelation of a society's soul
than the way in which it treats its children."

Nelson Mandela.

PREFACE

Restorative justice has been present in human practices and societies since ancient times. The Hammurabi Code established the practice of compensation as an alternative to the death penalty and in the Iliad, the practice of gathering together to agree on certain pecuniary compensations as a way to repair crimes is presented (Gavrielides, 2011). The Iliad reparations are apparent, which shows that this type of justice was a part of the collective understanding at the time and was documented in one of the most famous literature works. The meeting between the parties involved in a crime has been important to some traditional justice processes, but the act of 'meeting' is undoubtedly the essence of restorative justice.

The practice of gathering together, whether for formal or informal purposes, is a practice that until the beginning of this year we had taken for granted and assumed it was natural. The Coronavirus outbreak in 2020 has shown us that such practice should never again be taken for granted. In this sense, restorative justice, a practice which largely depends on human interaction, might be threatened.

Nevertheless, this virus has also shown us that this time is a unique opportunity to make this crisis mean something. In the context of a restorative practice, this 'something' is the need to see our interactions as an opportunity to build alternative paths towards justice.

The circumstances of the pandemic impacted the present thesis research during its development in a myriad of ways. For example, the number of professionals who withdrew their participation was significant and finding availability in the schedules of those who did participate was also a challenging process. The work activities of everyone seemed to go through constant changes which made it difficult to carry out immediate and face-to-face interviews. In the end, these difficulties were positively overcome. More details about them are further explained in *Chapter 4. Research methods.*

All the difficulties faced by this study will be always minor compared to those suffered by all the people who have been directly faced the consequences of this pandemic in major levels. My greatest commitment as a social worker to continue reducing the social gaps that this crisis has starkly revealed.

ACRONYMS

UN	United Nations
UNICEF	United Nations Children's Fund
UNCRC	United Nations Convention on the Rights of the Child
UNODC	United Nations Office on Drugs and Crime
ECOSOC	United Nations Economic and Social Council
RJ	Restorative Justice
RP	Restorative Process(es)
VOM	Victim Offender Mediation
YP	Youth Punishment
KRUM	National Swedish Association for Penal Reform (*Riksförbundet för kriminalvårdens humanisering*)
KROM	Norwegian Association for Criminal Reform (*Norsk forening for kriminalreform*)

TABLES AND MODELS

CHAPTER 1. INTRODUCTION

Justice systems in Sweden and Norway -referred in this study as Scandinavia- are committed to interventions that keep children and young people away from prisons. Among others, restorative justice (RJ) is one of these commitments. RJ is an alternative form of doing justice that stands out for addressing crime differently than traditional justice. At the core of RJ is the acknowledgment of responsibility, mainly on the part of the offender who should take active steps to repair, as far as possible, the harm caused to the victim or the impacted community (Zehr, 2015).

The implementation of 'Scandinavian alternative approaches' to punishment (Pratt, 2008) such as RJ, is reflected in some of the lowest figures of the deprivation of liberty of children. In 2018, statistics from the National Prison Services in Sweden and Norway report that in Sweden, 23 young clients in the inflow to the Prison Service were 17 years or younger. Of these 23, 15 children started protective supervision in the outpatient setting and only 8 children started a longer enforcement at an institution (*Kriminalvården*, 2018, p. 73). In the same year, Norway had 25 clients under 18 years who completed a closed detention. Of these clients, 19 completed their detention within the first month, 2 of them completed it within three months and only 4 children remained in the services for a longer period (*Kriminalomsorgen*, 2018, p. 15).

Among European countries, Sweden and Norway are some of the pioneers in the implementation of restorative processes (RP), mainly with children. Both countries developed pilot projects more than three decades ago, and they have a legal framework that includes restorative justice as an alternative to address youth crime (Mestitz, 2008). The experience these countries have accumulated implementing RJ over the years is valuable. The present research project seeks to gather knowledge from professionals in Scandinavia who have worked with restorative approaches, specifically Victim Offender Mediation (VOM) in Sweden and Youth Punishment (YP) in Norway as the main processes with children and young people in these countries. Professionals' perspectives and their built-up knowledge could be a meaningful contribution to other colleagues or organizations in other countries that currently implement or seek to implement restorative justice with young population. The importance of gathering these perspectives from the social work field is based on the opportunity to explore RJ as an area in between the legal and social fields. This exploration represents an opportunity for social workers engaged in the search for social justice to operate from a more holistic approach.

In a sort of analogy that may help to explain the title of this project, this study is aimed at finding out what the key pieces of the 'Scandinavian puzzle' are when utilizing RJ with children and young offenders. Piecing this puzzle might be a source of inspiration for systems that are willing to integrate this practice as a viable option to do justice or individual professionals trying to dabble in restorative practices.

This chapter presents the background for the development of this study, followed by the research purpose and aim, and research questions. Furthermore, the relevance and the scope of the study are explained, as well as concepts that I considered essential to define from the beginning in order to establish a common ground with the reader. The last part presents reflections on the personal position that might have an influence on this study.

1.1 Background

The modern roots of RJ in Scandinavia go back to the emergence of the mediation movement in Norway in the mid 1970s (Miers, 2001), a process that reached Sweden in the late 1980s (Wahlin, 2005). The interest in mediation also coincides with the development of prison movements and the struggle against prison systems in Scandinavia from 1968 to 1970 (Dünkel, Horsfields & Păroşanu, 2015; Mathiesen, 1974a).

In Norway, the ideas proposed in Nils Christie's article on *Conflicts as Property* (1977), were the inspiration for the introduction of mediation boards and the Conflict Council (*Konfliktrådet*) (Fornes, 2012; Vogt, 2012). The first mediation board was established in 1981 as an experiment and it was part of the project 'Alternatives to imprisonment of juveniles' (*Alternativ til fengsling av ungdom*) (Fornes, 2012, pp. 93-94). Nowadays, the Conflict Council is responsible for the implementation of Youth Punishment and Youth Follow-up, the most recent restorative reactions for young offenders adopted in 2014 (Holmboe, 2017).

In Sweden, the interest in mediation emerged in 1987 through the implementation of Victim Offender Mediation programs and the pilot projects in penal matters led by the National Council of Crime Prevention (*Brottsförbyggande rådet, BRÅ*) were aimed at young offenders at some municipalities (Jacobsson, Wahlin & Fromholz, 2018; Mestitz, 2008). Currently, VOM is organized within the municipal social services and it is used with children and young people committing crimes, but also as a preventive measure (Jacobsson, et al., 2018). As of January 2008, mediation should be offered by all municipalities in Sweden when a crime is committed by a person who is under age 21 (Rypi, 2017).

Youth Punishment and Victim Offender Mediation are practices based on the primary components of restorative justice, which means that emphasis is on addressing the consequences of the offense through the involvement of those who have a stake in the specific offense (Marshall, 1999; Zehr, 2015). Through the perspective of professionals who practice these processes, this study is aimed at exploring the key elements that make its implementation possible.

It should be noted that RJ is often seen as a particularly well-suited approach when the offender is young (Andersson, 2014; Dünkel, et.al., 2015; Fornes, 2012; Sherman & Strang, 2007; Walgrave, 2004; Zehr, 2015). The emphasis of restorative-based processes is not on taking punitive measures against the offender, but rather to acknowledge the responsibility for the action and face its consequences (Marshall, 1999; Zehr, 2015). The acknowledgment of responsibility is important because facing the consequences of a crime may support the development and bonding of the young person with the community.

Restorative justice in relation to children and young offenders, is closely related to John Braithwaite's theoretical approach of 'Reintegrative Shaming' (Braithwaite, 1989). His approach claims that the consequences of crime are better handled through the communication of the disapproval of the criminal act rather than through the social rejection of the person that committed it, and the state's intervention (Braithwaite, 1989). Sanctions imposed by relatives, friends or another meaningful group for the offender, seem to have more impact on criminal behavior than those imposed by a legal authority. Working with young offenders from the feelings of *shame* and

guilt pursues 'shaming' as a non-stigmatizing approach that reintegrates the offender back into 'communities of care' (Walgrave & Braithwaite, 1999, p. 1). These communities are those to which the individual feels emotionally attached. Restorative Justice (Marshall, 1999; Walgrave, 2008; Zehr, 1990, 2015) and Reintegrative Shaming (Braithwaite, 1989) are, therefore, the main theoretical framework that will serve to motivate the analysis of the empirical data in this study.

The outstanding criminal policy for adults in Sweden and Norway and the implementation of RJ policies with minor offenders has allowed deprivation of liberty to be truly used as a last resort with children and young offenders. For this reason, part of the thesis from John Pratt (2008) on *Penal Exceptionalism in Scandinavia* is also used as a theoretical departing point in this study. Primarily, what Pratt discusses is the relation between the conditions of equality, welfare and type of punishments that have influenced the development of a more human and lenient criminal policy in Scandinavia.

The opportunity to delve into Pratt's analytical framework, together with the possibility to explore professionals' perspectives on restorative processes in Sweden and Norway, is relevant in an effort to define and explain the key elements required for the implementation of RJ with children and young offenders.

1.2 Research purpose and aim

The overarching purpose of this study is to explore and gain knowledge about professionals' perspectives on the key elements and conditions that enable restorative justice to be implemented with children and young offenders in Scandinavia. In order to fulfill this purpose, I delved into the perceptions of professionals, such as social workers, sociologists and criminologists with practical experience of implementing restorative processes in Sweden and Norway.

1.3 Research questions

This study aims to answer the following general question:

What are the professionals' perspectives on the key elements and conditions that enable the practice of restorative justice with children and young offenders in Scandinavia?

In light of this question, the specific questions are:

I. How do professionals understand restorative justice in relation to children and young offenders?

II. What are the professionals' perspectives of implementing restorative processes?

III. What are the professionals' perspectives on challenges and opportunities of restorative justice in Scandinavia?

1.4 Relevance of the study

The Hidden Juvenile Justice System in Norway: A Journey Back in Time, an article written by Katherine Van Wormer (1990), Education Director at Vangseter Treatment Center in Norway, time claims:

> Norway is the model: ask about health, child care, social equality and Norway leads the world. Ask about juvenile justice, and much of the world leads Norway. As a practicing social worker in Norway, I set out to discover progressive treatment of children in trouble by a progressive country. My journey at first led me nowhere, for I was told there was no mechanism for controlling young lawbreakers' behavior: This system was so progressive that there was no system at all.
>
> Then some social workers from the "social office" introduced me to a world hidden far from public view, to a process that is punitive, arbitrary, and an instrument of social control. It is a process that has largely gone unexamined, either by foreign or native observers (Van Wormer, 1990, p. 57).

Van Wormer's article is a brief review of the Norwegian child's welfare system and the legal system that operated with children and young offenders at the time. Her work is perfect to use in order to reflect on the broader relevance of the present study:

Firstly, the present study is relevant because it gathers professionals' perspectives as direct witnesses and participants chairing restorative processes. While grounded theoretical approaches address the development of restorative justice (Walgrave, 2008, Zehr, 2015), literature such as international handbooks, basic principles and guides concerning its implementation (United Nations, 2000; UNODC, 2006) tend to miss the experiences and perspectives of professionals in charge of building the bridge between theory and practice.

Secondly, it is important to notice that, even though Sweden and Norway do not have a separate and specialized criminal justice system for children, as is desirable in light of CRC Art. 40 (Grøning & Sætre, 2019), these countries have developed important mechanisms to take care of children in conflict with the law. The incorporation of RJ into their criminal justice systems is one of these mechanisms. However, studies in English on the professionals' perspectives of implementing restorative processes in Scandinavia seem to be limited. This study may therefore be significant as a contribution to this field.

Finally, the present study contributes knowledge about the experience of those who 'have done well,' in a field that presupposes special conditions such as active participation and responsible societies in order to address crime. "Societies that bring people together rather than to further victimize and tear them apart" (Saade, 2013, p. 6). Having the opportunity to learn about professionals' experience can open windows of knowledge to others and even encourage them to undertake primary practices. Responsible societies can practice RJ but also RJ may stimulate the emergence of such societies (Walgrave, 2008). Thus, this study adds to the body of knowledge of restorative justice. As a research project this study might inspire further investigation and practice in contexts that, so far, have remained restorative-sterile in the specific field of child justice.

1.5 Scope of the study

The scope of this study is delimited to the perspectives of professionals who have chaired VOM and YP in Sweden and Norway. The study does not reach all participants within these RP. The perspectives of children, young people, families, communities and other actors that have gone through the experience of participating in such processes is important for a broader understanding of restorative justice, however the scope of this study cannot include them, mainly due to a limitation in access to these populations and limitations on time for the development of this research.

The scope is also restricted due to a limited number of participating professionals and the literature review process did not include sources in the local languages. However, an extensive revision of literature available in English was done and considered more appropriate given the time constraints and the disruptive circumstances due to the pandemic. Nevertheless, the limited number of participants also allowed a more detailed analysis of the collected data.

Since RJ can be juxtaposed with criminal justice, it is necessary to clarify that this research is limited to the study of the implementation of RP from the social and professionals' configurations and not from the legal enforcement in Scandinavian countries.

It should be noted that, the decision to limit the study within Sweden and Norway as representatives of a regional approach might also limit the scope of this study, since other countries, such as Denmark, Finland and Iceland, are also considered as nations with similar approaches to children and restorative practices within the Nordic region (Lappi-Seppälä, 2011; Takala, 2005).

The Nordic Research Council for Criminology (*Nordiska Samarbetsrådet för Kriminologi* - NSfK) with members from Denmark, Finland, Iceland, Norway, and Sweden is an example of a broader regional organization aimed to do research in Nordic countries on issues related to crime and responses to it. In this matter, to broaden the scope of this study without the need to include more countries, the literature review included sources from the Nordic region.

1.6 Core concepts

In order to establish a shared basis for understanding, it is necessary to define the core concepts that will be used throughout this study. This is also important because there are some linguistic differences that might impact the narrative of the study given its development in countries with primary languages other than English.

1.6.1 Restorative justice

Since 1985, when the first integrated written works on restorative justice appeared (Marshall, 1999), several advocates of the restorative approach have tried to contribute their own definition of the term. Although there is no single definition of this concept, there is a common agreement on the basic principles that comprise it. Even though these principles will be described more extensively in *Chapter 3*, I believe it is necessary to initially define one of the core concepts of this

research. Based on the conceptions from Howard Zehr (1990), Tony F. Marshall (1999), and Lode Walgrave (2008), some of the main writers and contributors of restorative justice, a full-scale definition would be:

Restorative justice is an optional process of doing justice that understands crime as a violation, either of people or community. According to RJ, the justice process should be handled, to the extent possible, by those who have a stake in it. The ultimate object of RJ is that the direct stakeholders resolve how to deal with the aftermath of the crime and the restoration of the individual, relational and social harm, rather than focusing on and judging the law-breaking action (Marshall, 1999; Walgrave, 2008; Zehr, 1990).

1.6.2 Restorative processes

Endeavors to promote restorative processes are mentioned as an important mandate of the United Nations (UN). Since 2000, the UN Economic and Social Council (ECOSOC) requested the UN Secretary-General to establish common principles on the implementation of restorative justice in criminal matters. In 2002, ECOSOC published the *Basic Principles on the Use of Restorative Justice Programs in Criminal Matters* (United Nations, 2000). This document defined restorative process as "any process in which the victim, the offender and/or any other individuals or community members affected by a crime actively participate together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party" (United Nations, 2000, p. 2). Among the most recognized and promoted restorative processes are victim offender mediation and group conferences (United Nations, 2006), which corresponds to VOM in Sweden and YP in Norway.

Zehr (2015, p. 53) considers that restorative processes are models and practical approaches seeking for justice, which adhere to the main 'principles of restorative justice' presented in the theoretical framework. For this reason, and because VOM and YP also meet the characteristics provided by the United Nations (2000), they can be considered, and they will be called throughout this study as 'restorative process(es).'

1.6.3 Retributive justice

The first approaches to restorative justice, postulated a sharp contrast between the features from 'restorative' and 'retributive' justice frameworks (Zehr, 2015). These contrasted characteristics tend to be misleading and to establish a polarization between the terms as if they were opposites. However, in more recent literature, the retributive part has been vindicated claiming that it represents fundamental components such as the rule of law, due process, a deep regard for human rights and the orderly development of law.

For the purposes of this study, retributive justice should be understood as the type of justice prosecuted by the State as the main body responsible for law enforcement, where crime is mainly conceived as lawbreaking that should be punished based on systematic rules that apply to everyone (Zehr, 2015). Retributive justice will be also referred in this study as 'traditional justice'.

1.6.4 Minimum age of criminal responsibility

The Convention on the Rights of the Child (UNCRC) requires States Parties to establish a minimum age below which children shall be presumed not to have the capacity to infringe the penal law (UNICEF, 1989, § 40-3(a)). The legislation of almost all countries have stipulated a minimum age of criminal responsibility. This age indicates the lowest age at which children can be formally charged with a criminal offense or subjected to any criminal legal proceedings within a criminal justice system (United Nations, 2019a). The UN Committee on the Rights of the Child in the *General Comment No. 24* (2019b), have urged States Parties to set 14 years as the minimum age. In all cases, this age is equally established for girls and boys.

The minimum age of criminal responsibility in Sweden and Norway is 15 years (Swedish Penal Code, 1962, §1 section 6; Norwegian Penal Code, 1902, § 52a). This age is relatively high compared to other countries worldwide where the age of responsibility varies between 7 and 13 years (see United Nations, 2019a, p. 280). In principle, this high age is an outstanding characteristic of Scandinavian Criminal Systems.

1.6.5 Children/Young offenders

For the purpose of the study, children and young offenders should be understood as the individuals facing a criminal justice process, who are between 15 and 17 years (children), and between 18 and 21 (young people). Throughout this work, these groups are at the core of the study since both have received particular attention in recent national strategies and restorative legal instruments in Scandinavia (Goldson, 2000; Persson, 2017).

The need to specify the two ranges of age is because the first one specifically concerns the minimum age of criminal responsibility in the criminal justice systems in Sweden and Norway (Swedish Penal Code, 1962, Chapter 1 § 6, Chapter 32 § 5; Norwegian Penal Code, 1902, § 52a; Norwegian Guardianship Act, Chapter, 1927, Chapter 1 § 2). The second range is included since in Scandinavian countries the age can be taken into account with regard to sentences (Andersson, 2015; Fornes, 2012), which means that depending on the age, sentences for young people, between 18 and 21 years, may become less severe than for adults over 21. Since age is a crucial factor for minors and young people within the justice system in Sweden and Norway, both ranges of age are mentioned throughout this study.

1.6.6 Child/Youth Justice System

The UN Committee on the Rights of the Child in the *General Comment No. 24* (2019b), acknowledges and strongly urges States Parties to continue the trend towards using terms such as 'child justice' and 'youth justice', which refers to "the legislation, norms and standards, procedures, mechanisms and provisions specifically applicable to, and institutions and bodies set up to deal with, children considered as offenders" (United Nations, 2019b, p. 3). The Committee considers that these terms are positive for reinforcing the dignity and worth of children in conflict with the law.

The *General Comment No. 24* (2019b) does not refer to children as 'juveniles' or to the system as 'juvenile justice'. For this reason, this study follows this terminology and only refers to 'juvenile(s)' when the term was originally retrieved from the source in that way.

Sweden and Norway do not have specialized juvenile justice systems aimed at children (Dünkel, et.al., 2015, p. 171; Fornes, 2012). Nevertheless, in Sweden, there are some special rules and sanctions provided to 15 to 17-year old children in the general Penal Code and in the Criminal Proceedings Code (Dünkel, et.al., 2015). In Norway, "there are no special laws regulating juvenile delinquency and there are no juvenile courts [however] there are few - but important - provisions in the Norwegian Criminal Proceedings Act and in the Penal Code framed to protect the special interest of offenders who are minors" (Fornes, 2012, p. 96). A corresponding term for 'juvenile justice system' is actually not used in Norwegian (Fornes, 2012) or Swedish language.

For the purpose of the study, I will refer to 'child/youth justice system' in the terms of what is established by the United Nations (2019b), which includes the special rules and special provisions reserved for children between 15 and 17 years considered as offenders in Sweden and Norway.

1.6.7 Deprivation of liberty

The UN Convention on the Rights of the Child (UNCRC), as the only international legally binding instrument with regard to child justice[1] (UNODC, 2013) in articles 37 and 40, calls upon States Parties to develop and implement a comprehensive policy for child justice. These articles highlight the use of deprivation of liberty "only as a measure of last resort and for the shortest appropriate period of time" and "recognize the right of every child accused of having infringed the penal law to be treated in a dignified manner" (UNICEF, 1989, § 37(b)(c)).

For the proposes of this study, 'deprivation of liberty' should be understood as "any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority" as defined in article 11 (b) of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) (United Nations, 1990, p. 2).

[1] According to UNODC (2013) there are other legally binding human rights instruments that are not particularly tailored for children such as the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (CAT), the European Convention on Human Rights (ECHR), the American Convention on Human Rights (ACHR), and the African Charter on Human and Peoples' Rights (the Banjul Charter). The African Charter on the Rights and Welfare of the Child (ACRWC) and the African Youth Charter (AYU) are considered as legally binding instruments but on the regional level. The International Labour Organization (ILO) Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention 182) of 1999 also forms part of the international legal framework. Finally, the 'three rules' should be mentioned as an international umbrella that operates to guide child justice, but not as legally binding instruments; the UN Guidelines for the Administration of Juvenile Delinquency (the Riyadh Guidelines), the UN Standard Minimum Rules for the Protection of Juvenile Justice (the Beijing Rules), and the UN Rules for the Protection of Juveniles Deprived of their Liberty.

1.7 Researcher's position

One must acknowledge the potential biases they bring to the table when embarking on research. As an advocate of restorative justice myself, I cannot ignore this as a possible bias that I have. From a phenomenological perspective, which is also part of the methodological choice for this study, it is believed that researchers that embrace this approach cannot be detached from their own presuppositions and that the researcher should not pretend otherwise (Hammersley, 2000 as cited in Groenewald, 2004, p. 45). Thus, I acknowledge that I have been shaped by my meaningful experience with children who have committed serious crimes and the implementation of alternative justice practices with them in my home country, Mexico.

Although this study is not aimed at comparing Scandinavian countries with Mexico, it is worth mentioning why the Mexican case is relevant for my position. Since June 2016, a new national law aimed at young offenders came into force, and Mexico opted for a less punitive approach that prioritizes treatment over the deprivation of liberty (CNDH, 2017). The implementation of restorative justice has been included in this law and it has implied for professionals an enormous effort in training and specialization aimed at working through restorative approaches with children and young people (Maltos Rodríguez, 2017). Nevertheless, to date, the practice of restorative justice still remains on paper in a status of good intentions.

In Mexico, the National Law related to Child Justice is the most comprehensive within the laws that address restorative justice, however its key issue is the lack of effective implementation (Maltos Rodríguez, 2017). Moving from intention to action has been the real challenge for the system. New perspectives, experiences, knowledge and awareness from professionals in other countries are welcome when it comes to tackling this challenging task. This study might be my own way to contribute. As a researcher with previous experience in the field, the opportunity to gain knowledge from restorative justice professionals in Scandinavia represents a unique opportunity to enrich and diversify my personal knowledge, devising new approaches inspired by others' perspectives and first-hand information.

For me, conducting research in a foreign country was full of challenges, the language barriers and cultural differences were some of them. However, there was a greater challenge. Throughout this process it was necessary for me to question my own position regarding restorative justice as an actual and viable practice that, despite being so 'promising' even for Scandinavia it is full of daily struggles. Is this a utopian practice? Do we all need to be Sweden or Norway to achieve restorative practices? These reflections are certainly not solved through this study, but, undoubtedly, they motivated a more open and receptive researcher's position on the subject.

CHAPTER 2. LITERATURE REVIEW

Chapter 2 introduces the background of the study and the development for the narrative and systematic literature review process carried out in this research. Thereafter, it explores the political background of Child and Restorative Justice, as well as the legal principles that govern this field in Scandinavia. Finally, the professional practice of restorative justice through Youth Punishment and Victim Offender Mediation in this region is addressed.

2.1 Motivation for narrative and systematic review

The literature review provides an overview of what is already studied in the restorative justice field and it also contextualizes the study in the existing body of research and knowledge (Bryman, 2012). In this study, two literature review process were performed, one using a narrative and one using a systematic approach.

As Bryman (2012) states, a narrative review helps to gain an initial impression of the topic area that is intended to be understood. As an external observer, it was necessary to get an overview of the Scandinavian system through the local literature to gain a better understanding of the context. Even though this was a useful first approach, compared to systematic reviews, a narrative review could 'appear rather haphazard', difficult to reproduce and with a 'questionable comprehensiveness' (Bryman, 2012, p. 111). Therefore, a systematic review was also performed in order to contribute to a more organized compilation of research about restorative justice in the region that helped to add previous and more specific research on the subject. The whole literature review process helped to underpin the main topics of interest and subsequently led me to the formulation of more specific research questions.

2.1.1 Description of the process

For the narrative review I restricted the review to studies from the Scandinavian region and also set this element as a criterion the results should met. Since Scandinavian countries are often confused or used as a synonym of Nordic countries, I used both terms during the search process. I also examined articles that had appeared in peer-reviewed journals. According to Bryman (2012) an advantage of peer-reviewed articles is that these can be searched relatively easily through online database, and they also offer certain quality control. The bibliographies in these articles was also reexamined, this allowed for the inclusion of other authors who have extensive research experience in Scandinavian's child/youth justice and criminal justice that did not appear in the initial search process. I extensively reviewed established literature, specifically classical theorists on RJ and an extensive amount of 'grey' literature (Bryman, 2012) on RP, such as handbooks, reports and articles from non-peer-reviewed journals.

For the systematic review, I employed a combination of the following terms; 'children/young/juvenile offenders'; 'child/young/juvenile justice system'; 'crime/offense'; 'restorative justice'; 'restorative process/practice'; 'professionals'; 'mediators'; 'social work/workers'; 'Youth Punishment'; and 'Victim Offender Mediation'. Due to the regional focus of the study, the words 'Scandinavia'; 'Nordic'; 'Sweden'; 'Norway' were always included.

Five databases were chosen for the whole process of literature review: Scopus, ProQuest Social Science, UN Digital Library, and the general databases of the University of Gothenburg and the University of Stavanger. Due to the proximity of the subject to the legal area, the databases of Swedish and Norwegian legislation, *Risksdagen* and *Lovdata* respectively, were also sources of relevant documents.

2.1.2 Results of the process

Results from narrative and systematic review were integrated and presented together. This made it possible to recall perspectives from 'classics' to understand better the 'modern' approaches on restorative justice that exist in the region. This was considered necessary since writers such as Christie (1977; 2013; 2015), Mathiesen (1974a; 1974b), Tapio Lappi-Seppälä (2007; 2011), and Zehr (1990; 2015) are multi-referenced in the most recent research papers on restorative justice in the Scandinavian region. Their different works seem to be indispensable in the study and understanding of criminal and restorative theory and practice in Sweden and Norway to this day.

The results were summarized in abstracts, as well as in tables and information diagrams, in a paper format. I personally appreciate the paper format since it allows an overview off-screen and during such a process the material is reflected on actively. Thereby, the material is more easily remembered and also becomes an integrated part in the personal understanding and knowledge.

The review of published work relating to RJ resulted in subsequent topics 2.2, 2.3 and 2.4. They are aimed at contextualizing this research within the existing body of literature related to the implementation of RJ with children and young offenders in Scandinavia. These topics were identified as important areas for the development of restorative justice in Scandinavia and they are interconnected.

In *2.2 Political overview* […] it is addressed the emergence of political movements in the region that promoted welfare-political positions and ideas on criminal and youth justice in the search for alternative ways of dealing with delinquency between 1970-1980 (Kemény, 2005). Topic *2.3 Legal overview* […] presents the formulation of a specific legislative body addressing the relation between children and crime. This legislative body partially integrated said welfare-positions through the Norwegian and Swedish Mediation Acts between 1991-2002 (Kemény, 2005; Wahlin, 2005) and special provisions in other Acts. Finally, *2.4 The professional practice* […] explains the development of Victim Offender Mediation and Youth Punishment as restorative justice processes emerged from the Mediations Acts. Those professionals who participate in chairing VOM and YP are the professionals at the heart of this study.

2.2 Political overview of child and restorative justice in Scandinavia

To understand restorative justice in Sweden and Norway, it is necessary to revisit the contemporary background of child and youth justice and detect how the political development of criminal justice systems in Scandinavia influenced its criminal policy.

The following section describes the importance of the political movements KRUM, the National Swedish Association for Penal Reform (*Riksförbundet för kriminalvårdens humanisering*) and KROM, the Norwegian Association for Criminal Reform (*Norsk forening for kriminalreform*) in Scandinavia and their relation to child justice in the region. It also explores the link between the Scandinavian *welfarist* approach to justice and restorative justice. Finally, it addresses the importance and influence that the ratification of the United Nations Convention on the Rights of the Child (UNCRC) has had on child justice in Sweden and Norway.

2.2.1 KRUM - KROM movements and child justice in Scandinavia

Within the Scandinavian criminal justice field, one of the most important historical moments was the emergence of the National Swedish Association for Penal Reform - KRUM, and the Norwegian Association for Penal Reform - KROM as social-political organizations at the end of 1960s.

Originally published in 1974, the political essay by the Norwegian sociologist Thomas Mathiesen (1974a) *The Politics of Abolition* discusses the development of certain pressure groups at the end of the 60s - KRUM in Sweden, KRIM in Denmark and KROM in Norway - as movements that advocated for the right to a dignified life within adult prisons (Mathiesen, 1974b). However, these movements also had an impact on the structure of prison systems for young people. At that time, Mathiesen asserted that the system aimed at young people in Norway was 'empty' in terms of ideological content, the 'treatment' was minimal, and 'the recidivism sky-high' (Mathiesen, 1974a, p. 110).

Mathiesen's work, established three main concepts that were stated from Swedish KRUM and Norwegian KROM as actual needs within the criminal system at that time. These concepts are *dignity*, *abolition* and *humanitarian work* and they were at the core of the development of child/youth justice policies and systems in Sweden and Norway.

The need for *dignity* arose from the context of dissatisfaction mainly coming from intellectual groups and socially oriented practitioners such as lawyers, sociologist, political scientists, and social workers (Mathiesen, 1974b). These groups pointed out the poor conditions in which prisoners lived inside prisons in Norway and Sweden in the late 1960s. The desire to change the situation brought up the first abolition ideas among KRUM – KROM members. Moreover, the 'Protectional School' (Mathiesen, 1974a, p. 98) aimed at boys of school age that was placed on an island in the *Oslofjord*, a far out strait in the south-east of the Norwegian sea, provided testimonies that revealed the reality of a place infringing the *dignity* of these minors through a more punitive than rehabilitative treatment. KROM participated in the struggle that led to close the place in 1970.

"The stress on abolition was followed in the struggle against the systems of youth prison, security, and remand" (Mathiesen, 1974a, p. 98).

Even though the idea about a complete *abolition* of prisons was raised from KROM and KRUM, this was used a merely the base for searching for alternatives to imprisonment within the youth prison at that time. Both groups emphasized the need to demand the abolition of systems that were practicing tough forms of punishment (Mathiesen, 1974a). KRUM actually alluded to other types of incarceration such as 'mental health care, alcohol care, narcotics care and handicap care' (Mathiesen, 1974a, p. 43).

Finally, the idea of *humanitarian work* within the systems, which stressed the importance of treatment for prisoners, was promoted early on by KRUM. "It was claimed that the idea of treatment had never been carried out in Swedish penal institutions […] the activity of the association was critical, but at the same time humanitarian and treatment-oriented" (Mathiesen, 1974a, p. 41). The humanitarian-pursuit within adult prisons would later on be integrated as an essential requirement into the criminal policy aimed at young people.

Conclusions in Mathiesen's (1974a; 1974b) political essays about what had been accomplished at that time show that part of the legacy of these movements are the mainstream ideas of *dignity*, *abolition* and *humanitarian work* in the criminal system. Nowadays these ideas also take care of children and young offenders from foundations closer to a *welfarist*-justice vision rather than a punitive-justice one. By 1977, Nils Christie would recall such foundations in his article *Conflicts as Property* (1977) where he proposed to establish alternatives to the traditional penal system that led the parties in conflict to take an active part in the process of finding solutions instead of leaving the State to solve them.

'Alternatives to Prison for Juveniles' was the first pilot project in Norway from 1980 to 1985. It was administered by the Ministry of Social Affairs, whose aim was to develop and test out 'new ways of handling juvenile delinquency' having a new age of criminal responsibility of 15 years (Kemény, 2005, p. 101). In regard to Sweden, the first mediation projects were started in 1987 in the cities of Hudiksvall and Soln/Sundbyberg. They were initiated by the police and organizations for former prison inmates and their families (Wahlin, 2005). The Swedish Association for Mediation was founded in 1998 (Wahlin, 2005). "The organization's primary focus has been directed at the use of Victim-Offender Mediation in connection with crimes committed by young offenders" (Wahlin, 2005, p. 77). These were the first formal restorative justice approaches in a *welfarist* justice scheme.

2.2.2 Scandinavian welfarist approach to justice

According to Esping-Andersen, the Scandinavian countries may be considered social democratic welfare - state regimes (Esping-Andersen, 1990). "These countries pursue a welfare state that would promote an equality of the highest standards, not an equality of minimal needs as [is] pursued elsewhere" (Esping-Andersen, 1990, p. 27). Therefore, the welfare regime in Scandinavian countries provides important conditions that not only shapes the arrangements between the state, market, and families, but also the child welfare system. This type of regime democratizes the distribution of skills, opportunities for educational achievements and, broadly speaking, 'children's

future life chances' (Esping-Andersen, 2016, p. 97). In this sense, children and young offenders in Scandinavia have not considered 'a different type of children', thus their future life chances should be equal to any other children and RJ offers these new opportunities in their life.

Tapio Lappi-Seppälä, a Finnish professor who has taken an active part in international co-operation in the Scandinavian Research Council for Criminology (NSfK) agrees on lenient criminal policies coming from strong welfare states. "Strong welfare states sustain less repressive policies by providing workable alternatives to imprisonment for children" (Lappi-Seppälä & Tonry, 2011, p. 8). Some of these alternatives rely on social services that usually work as effective crime prevention measures even if they were not formally constituted for that function (Lappi-Seppälä, 2011). YP and VOM can be considered as preventive measures, insofar as part of its objective is that the offender does not relapse.

When it comes to child/youth justice, it is possible to identify a link between *justice* and *welfare* through the two classical approaches, the 'justice' and 'welfarist' approach (Cavadino & Dignan, 2012). The justice approach stresses the criminal responsibility and the need of punishment as a consequence of the wrongdoing. It also emphasizes the importance of children and young people having legal representation in juvenile courts, especially because deprivation of liberty is a highly possible outcome (Muncie, 2004). The justice approach is often linked to retributive justice which persecutes crimes using the State as responsible of law enforcement (Zehr, 2015).Through this approach, children in trouble are tended to be 'removed from the category of child altogether' and essentialized through other images, such as wrongdoers that 'must be locked up' (Jenks, 1996, pp. 128-129 as cited in Goldson, 2000, p. 258).

On the other hand, the welfarist approach stresses the needs of each individual child as well as the need of treatment. This approach provides an assessment of every child's needs and promote non-custodial disposals. When court action is unavoidable, this approach seeks to implement civil proceedings instead of criminal proceedings leading to deprivation of liberty (Cavadino & Dignan, 2012; Muncie, 2004). A welfarist approach can be linked to RJ from which crime involves not only the offender, but the victim and the community in a search for solutions (Zehr, 2015). Central to this approach is the involvement of social workers as an authority. This grants them a more central role in child justice because of their professional experience working with families and children (Muncie, 2004) and due to the fact that many children serving custodial sentences have suffered several forms of child abuse (Boswell, 1996 as cited in Goldson, 2000). Given these characteristics, professionals using a welfarist approach are clearly committed to outside - prison treatments. For instance, the number of minors deprived of liberty in Scandinavia is significantly low in relation to the number of children in its population. Only 12 children, 8 in Sweden and 4 in Norway, were convicted for a longer period as a consequence of serious offenses during 2018 (*Kriminalvården*, 2018; *Kriminalomsorgen*, 2018). This fact shows a propensity for a welfarist approach in these two nations.

Through a welfarist approach it is possible to reach a wider assessment of the child's personal history and background. "Things for which the child could not fairly be held responsible" (Lappi-Seppälä, 2011, p. 206). The welfarist approach provides a more contextualized way and prevents us from falling into the 'child demonization' and the 'punitive policy thrust' that makes young offenders unable to claim their childhood (Goldson, 2000, p. 258).

2.2.3 The UNCRC and child justice in Scandinavia

Another event that is important to look at when exploring the development and professional practice of restorative justice in Sweden and Norway, is the ratification of the United Nations Convention on the Rights of the Child (1989).

The adoption and ratification of the UNCRC represents the legally binding commitment to abide by the provisions of this international treaty. Sweden signed and ratified the Convention in 1990, while Norway ratified it in 1991 (United Nations, 1994). In Sweden and Norway, the UNCRC has been embedded in national laws, and the principle of best interests of the child shall be considered in all decisions that involve children (Hydle, 2013; *Sveriges Riksdag*, 2020a). Part of the historical relevance of this ratification for the Scandinavian countries lays in its connection with the creation of debates and demands in the interest of children regarding dignity and security, along with the encouragement of less punitive measures when dealing with youth crime (Storgaard, 2005).

Specifically, articles 37 and 40 call upon the States Parties to develop and implement a comprehensive policy for child justice. These articles highlight that "every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family [and] States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law […]" (UNICEF, 1989, § 37, 40).

Since 1999, Norway has embedded the UNCRC in National legislation through the Human Rights Act (1999, § 2), thus it is legally binding for this country. Nonetheless, in concluding observations submitted to Norway in 2010, the Committee on the Rights of the Child expressed concern regarding the implementation of articles 37 and 40, specifically regarding the non-separation from adults in prisons and the lack of training for personnel working with young offenders within these prisons (Grøning & Sætre, 2019). In 2018, as an outcome of the 5th and 6th periodic reports of Norway to the CRC Committee, Norway was urged " […] to bring its juvenile system fully in line with the CRC and other relevant standards" (Grøning & Sætre, 2019, p. 175) and to ensure that children are separated from adults when imprisonment is unavoidable. Currently, Norway has special places, far from being prisons, for children and young people who have required deprivation of liberty as an extreme measure for serious offenses.

On January 1st, 2020, the UNCRC was incorporated into Swedish law. This was one of the most significant changes to Swedish legislature in some time. Prior to this change, Sweden had been criticized for this lack of legislation because the best interests of the child principle were not explicitly expressed in the juvenile criminal justice system (Persson, 2017), but it has now been rectified. According to Persson (2017), the consideration of this principle has several implications for child/youth justice systems owing to its relation to the search for alternative ways of responding to criminal offenses committed by a young person. "In the framework of juvenile justice, the traditional objectives of criminal justice, such as punishment and retribution, must give way to the objectives of rehabilitation and restorative justice" (Persson, 2017, p. 328). Thus, 2020 is the year when the UNCRC has become binding law in Sweden. This means that all legislation concerning

children in this country shall be interpreted on the basis of the UNCRC in its entirety and not only on the basis of the provisions transformed into each act (*Sveriges Riksdag*, 2020b).

When it comes to cases in which custody measures should be taken, both countries have followed UNCRC mandates through the creation of special facilities to place children separated from adults. In Norway there are two facilities for custodial measures aimed at children, Youth Unit in Bergen and Youth Unit in Eidsvoll (*Kriminalomsorgen*, 2020), while in Sweden there are six SiS Youth Homes (*Statens institutionsstyrelse,* 2020) aimed at young people who serve what is called 'closed youth care', these youth homes are located in different parts of the country and they are named: Johannisberg, Sundbo, Bärby, Fagared, Råby and Brätttegården.

As mentioned, Sweden and Norway do not have what is strictly known as 'juvenile justice systems'. However, the creation of these specialized facilities for children and young offenders shows how they have adapted their system to the mandates of the Convention. Furthermore, they have developed policies and have made legislative amendments including special provisions aimed at children and young people that supplement general alternatives within the general criminal systems (Lappi-Seppälä, 2007).

Through the adjustment of Swedish and Norwegian laws to the principles of the UNCRC, specifically those related to the implementation of a comprehensive policy for child justice, these countries have reconfigured a legal basis aimed at children and young people dealing with crime. Restorative justice has been included in some of their legal instruments as part of this comprehensiveness. In the following section, this legal base is presented, and more in-depth analysis to current legislation that connects child justice with restorative justice will be done.

2.3 Legal overview of child and restorative justice in Scandinavia

This section is aimed at presenting the main legal framework that has included special provisions for children and young offenders in Sweden and Norway. Special attention is given to the Swedish Mediation Act (2002) and the Norwegian Conflict Council Act (2014) as the two major legal instruments aimed at restorative justice in these countries. At the end of the section, it is described how social workers, other professionals and practitioners and their activities in restorative justice are introduced by these laws.

2.3.1 Legal framework for child justice in Sweden and Norway

Given the analytical scope of this study, this section shows a general overview of some of the main Acts that make up the legal base of the criminal justice system in Sweden and Norway. These Acts were consulted for a comprehensive understanding on the topic, and because several of other reviewed sources repeatedly cite these laws.

This legislation was examined, paying special attention to the articles and provisions aimed at child/young offenders. *Appendix 1* contains some of the main articles that refer to children's rights and guarantees as well as the specific provisions to be followed by authorities, institutions, parents, and other actors responsible for children under criminal proceedings. These articles and provisions have been cited directly from the law and are not personal interpretations.

Table 1 provides an overview of the main legal instruments that, aligns with the best interests of the child and make up the legal base aimed at protecting minors who enter in conflict with the law in Sweden and Norway. Within this framework, particular attention is paid to the Mediation Act [*Medlingslagen*] (2002: 445), and the Conflict Council Act [*Konfliktrådsloven*] (2014). These Acts lay the legal foundation for the implementation of the main restorative practices with children and young offenders: Victim Offender Mediation and Youth Punishment.

Both, in Sweden and Norway, these practices represent reactions to crime committed by children that are intended to build upon the ideas of restorative justice, which emphasis is placed on the best interest and future development of the child (Holmboe, 2017; Jacobsson, et al., 2018). The structure of the acts that contain VOM and YP is explained in the following section. The updated version of this legislation can be consulted at the governmental online databases of Swedish and Norwegian national legislation (*Riksdagen*, 2020; *Lovdata*, 2020).

Table 1

Legal framework for child and youth justice in Sweden and Norway

Swedish Law	Norwegian Law
Penal Code [*Brottsbalk*] (1962: 700)	Penal Code [*Straffeloven*] (1902)
Code of Judicial Procedures [*Rättegångsbalk*] (1942: 740)	Sentences Act [*Straffegjennomføringsloven*] (2001)
Act with special provisions on the care of young people [*Lag med särskilda bestämmelser om vård av unga*] (1990: 52)	The Criminal Procedure Act [*Lov om rettergangsmåten i straffesaker*] (1981)
Young Offenders Special Provisions Act – LUL [*Lag med särskilda bestämmelser om unga lagöverträdare - LUL*] (1964: 167)	Guardianship Act [*Vergemålsloven*] (2010)
Act on the implementation of closed youth care – LSU [*Lag om verkställighet av sluten ungdomsvård – LSU*] (1998: 603)	Human Rights Act [*Menneskerettsloven*] (1999)
Social Services Act [*Socialtjänstlag*] (2001: 453)	Child Welfare Act [*Barnevernloven*] (1992)
Mediation Act [*Medlingslagen*] (2002: 445)	Conflict Council Act [*Konfliktrådsloven*] (2014)

2.3.2 The Swedish and Norwegian Mediation Acts

The Swedish Mediation Act (2002) applies to mediation activities aimed at reducing the negative consequences of a crime, giving the perpetrator greater insight into the consequences of their actions and giving the victim the opportunity to process the experience. This activity of mediation, better known as Victim Offender Mediation, should be organized by the state or a municipality (Mediation Act, 2002, § 1 - 3).

This act establishes *mediation* as a voluntary activity for both the offender and the defendant and it only limits the age for participants when the perpetrator is under 12 years of age. In such cases, mediation may only take place if there are special reasons (Mediation Act, 2002, § 5). As it appears from the preparatory work established in this act, mediation can be considered a *complement* within the Swedish child justice system (Jacobsson, et al., 2018). The mediation procedure is process-oriented, which means that "[…] the mediation is regarded as a process that begins with the crime event and ends with a possible agreement between the parties" (Jacobsson, et al., 2018, p. 73), thus the duration may vary.

As for the *agreements* and their *follow-up*, these elements are not explicitly formulated in the Swedish Mediation Act (2002) and it is not defined, neither does it stipulate what the act means by agreements, nor the way in which they can be followed up (Jacobsson, et al., 2018). "In practice, the agreement can be made written or spoken. Moreover, it may concern economic compensation, compensation through work or future behavior between the parties" (Jacobsson, et al., 2018, pp. 74-75).

On the other hand, the Norwegian Conflict Council Act (2014) has stated RJ as a principle. This means that Conflict Council's (*Konfliktrådet*) activities shall be based on processes that facilitate to the parties affected by a crime jointly determine how to manage its consequences. This act establishes two kinds of reactions for young offenders: youth punishment (*ungdomsstraff*) and youth follow-up (*ungdomsoppfølging*) (Holmboe, 2017).

Both reactions consist of conducting a 'youth conference' that is the adapted name in Norway for the 'group conference' type of RP that corresponds to the main part when implementing Youth Punishment. This conference is followed by the preparation of an individually adapted youth plan and also the follow-up of this plan (Conflict Council Act, 2014, Chapter IV, § 22). However, the YP is reserved for more serious offenses and may only be determined by a court. "If an offender sentenced to youth punishment does not meet the conditions, he or she risks imprisonment" (Holmboe, 2017, p. 39). Therefore, this reaction can be considered as an *alternative* within the Norwegian child justice system. The execution period can be from six months up to three years in exceptional cases (Conflict Council Act, 2014, Chapter IV, § 23).

If the accused person intentionally commits violations during the implementation of youth follow-up, the youth coordinator may transfer the case back to the prosecuting authority (Conflict Council Act, 2014, Chapter IV, § 33). The duration of this sanction may not exceed one year (Conflict Council Act, 2014, Chapter IV, § 23).

2

2.3.3 Social workers, other professionals and practitioners in Law

Moving from the aforementioned legal instruments to practical applications of law may rely on several individuals or collective actors, such as professionals or a group of practitioners within child/youth justice systems. In this regard, child justice in Scandinavia is closely related to the practice of social work, mainly throughout child welfare and mediation services. Social workers, for instance, are notified by the police together with the parents from the beginning of any criminal investigation taking place against a child, and they are expected to be present during the interview or interrogation by the police (Storgaard, 2005).

Even though the level of intervention by social workers and other professionals in the child justice system may differ from country to country, the professional practice is not limited to procedural matters in any country. In Sweden and Norway, they represent social authorities responsible for supervision, support and advice concerning conditions of young offenders (Storgaard, 2005). The professionals in charge are primarily focused on their social skills and individual needs. "Social workers sometimes have a great deal of (or the total) influence on the duration of [children's] stay in an institution" (Storgaard, 2005, p. 198).

When it comes to the role assigned by the Mediation Acts, the intervention of social workers as professionals differ from Sweden to Norway and in both countries it is broadly opened to the participation of other professionals and practitioners from different fields. Main differences in the intervention are explained below.

The Swedish Mediation Act (2002) regulates that the mediator (*medlaren*) should be "a competent and upright person and impartial in regard to the parties […] the mediator can either be a layman or a professional" (Jacobsson, et al., 2018, p. 71). However, it is not clear from the law what it means to be 'a competent and upright person.' According to Jacobsson, et al. (2018), there was a discussion in the government bill about establishing specific requirements for being a mediator but the agreement was that it would be sufficient that the law requires mediator's general qualities, such as education and experience that demonstrate the mediator is competent and suitable for the task (Jacobsson, et al., 2018).

Even though the mediation activities in Sweden are not institutionalized, they are commonly placed under the responsibility of the municipalities, specifically under their social services departments. According to practical experience reported from Wahlin (2005) mediation projects are conducted by professional officials within the framework of their daily work activities. She also points out that some mediation projects could be conducted exclusively by professional mediators or lay persons. On the other hand, professionals working in victim support organizations are often considered unsuitable for the role of mediator since they should not be associated with the exercise of public authority or being perceived as partisan (Wahlin, 2005).

The majority of mediators in Sweden are professionals in related fields, such as social workers that have undergone higher education, and often have extensive professional experience. However, in order to become a mediator, it is not a requirement to have specific training in mediation or any other special education of any specific academic background (Wahlin, 2005). Since the Swedish mediation system also involves lay mediators, Wahlin (2005) assures that almost any adult able to

prove that he/she possesses the necessary personal qualities can become a lay mediator. However, for these layman practitioners, since 2003 the National Council of Crime Prevention (*BRÅ*) has offered a national training program available to attend to different conflicts that go from property crimes to 'relatively uncomplicated cases of violent crime' (Wahlin, 2005, p. 98).

The relatively new Norwegian Mediation Act promulgated in 2014 which repealed the Conflict Council Act originally adopted in 1991 (*Lovdata*, 2020), establishes two professional figures for the implementation of RP, the youth coordinator (*ungdomskoordinator*) and the mediator (*meklere*). According to the Conflict Council Act (2014, Chapter I, § 3; Chapter II), the youth coordinator is responsible for conducting Youth Punishment, whilst the mediator intervenes in civil cases.

This Mediation Act provides specific general requirements that must be met to become a youth coordinator or mediator, as well as the cases when exclusion for misconduct or position apply (Chapter I, § 5 - 7). As general requirements for being considered for the appointment youth coordinators and mediators must be over 18 years; a citizen of Norway or another Nordic country, or having been entered in the National Register of Residents for the last three years before the appointment; and a suitable person for the case of mediators they must also be resident in the municipality where the position is sought (Conflict Council Act, 2014, Chapter I, § 5). As for the term 'suitability' as a requirement, the law does not go further with this definition nor does it establish a specific professional background that mediators must have.

The mediation activities in Norway are institutionalized through the Secretariat for the Conflict Councils (*Sekretariatet for Konfliktrådene*). According to the website (*Konfliktrådet*, 2020a) these cover professional development and administrative tasks. To the date, there are 22 Conflict Councils, distributed along different regions within the country and these are subject to the Ministry of Justice and the Emergency Department.

In regard to educational background that professionals implementing restorative justice must fulfill, even if a specific profession is not explicitly required, the Mediation Act (2014, Chapter I, § 7) is explicit when exclusions apply. For example, "employees at the prosecuting authority with prosecution expertise, police employees with police authorities and police college students during the year of practice" cannot be appointed as mediators (Mediation Act, 2014, Chapter I, § 7). According to Conflict Councils' website, when selecting mediators, emphasis is placed on "personal characteristics, such as the ability to deal with interpersonal problems, the ability to be impartial, as well as trust in the local community. No formal education is required, but mediators must be over 18 and have impeccable behavior" (*Konfliktrådet*, 2020b). To be appointed as a Youth Coordinator, requirements are not explicitly expressed neither in law nor on the official website.

To sum up, this legislation shows how professionals have been integrated into the law as lead implementers of restorative justice and how also they have dabbled into the criminal justice systems through legal instruments that can be considered "a bridge between criminal justice and social work" (Saade, 2013, p. 3). This legal body offers to social workers and other professionals the opportunity to enhance their commitment to social justice through the practice of RJ.

2.4 Professional practice of restorative justice in Scandinavia: Victim Offender Mediation and Youth Punishment

The concluding part of the literature review chapter presents a general overview of the two main restorative processes implemented in Scandinavia: Victim Offender Mediation and Youth Punishment. This overview shows how professionals intervene and what their role is throughout the different stages of both processes. Moreover, some relevant studies addressing empirical work in Sweden and Norway are presented and fundamental theoretical framework coming from Nils Christie, as one of the major representatives and critics of restorative justice in this region should be mandatory presented.

2.4.1 Sweden: Victim Offender Mediation

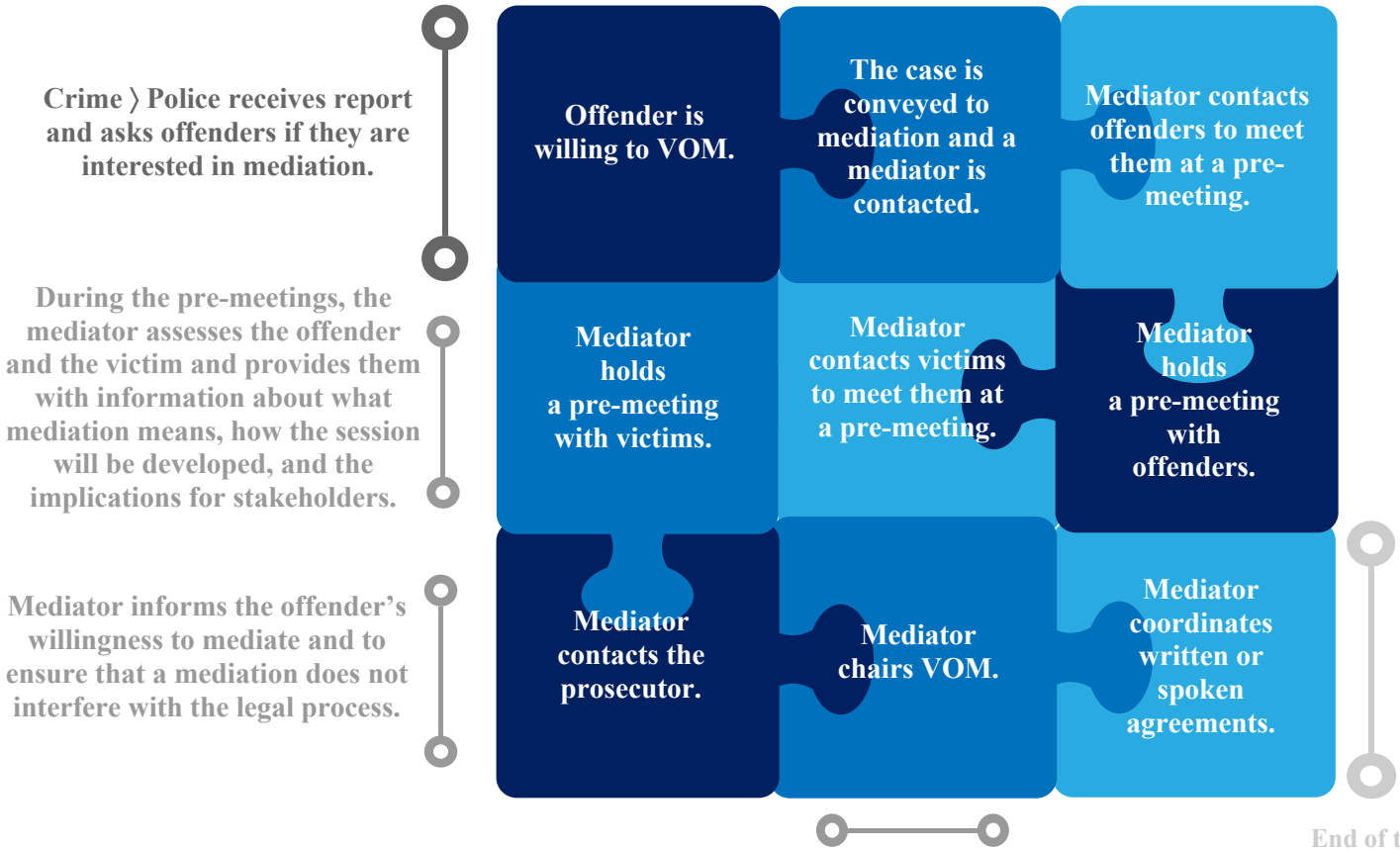
All youth justice sanctions for young people between 15 and 18 years are prosecuted in the same criminal courts used for adults and the legal process is similarly carried out (Hollander & Tärnfalk 2007, p. 95). According to the Swedish Penal Code (1962, Chapter 29, 30, 32, 34), the legal consequences that can be imposed for young offenders who have committed an offense, are community service, juvenile care, youth custody (closed institutional treatment), fine, conditional sentence, and supervision.

The first three consequences are carried out by social services and specifically designed for young people. The other three consequences are typically aimed at adults but will be implemented with young people when the legal consequences for young offenders are not suitable (Persson, 2017). These consequences are presented since it is essential to highlight the fact that VOM is not included as an option within the set of 'legal reactions' for crime, therefore, VOM is considered a *complement* within the Swedish child justice system and usually it takes place before the trial (Jacobsson, et al., 2018).

Model 1 (self-made based on Hollander & Tärnfalk, 2007; Jacobsson, et al., 2018, pp. 73-74) presents an overview of the (ideal) implementation process of Victim Offender Mediation in Sweden:

Model 1

Overview of Victim Offender Mediation implementation in Sweden



According to Jacobsson, et al. (2018), it has been found that in practical applications this model has some gaps and inconsistencies in professionals' participation that might impact the process. Some of these are:

- Mediators often work alone. As mentioned, according to the Swedish Mediation Act (2002), a mediator can either be a layman or a professional with no specific background and this practical application is problematic since they do not have the opportunity to exchange experiences and knowledge with other mediators and educators.
- Mediators evaluate differently the possibility for parents and legal guardians to participate in the mediation meeting. Some of them believe that their participation may be positive, while others think that they may be interfering with the process, for example, when some parents act aggressively or try to lead the meeting.
- Mediators have no duty to follow-up the agreement. The agreement may or may not be fulfilled, and the prosecutor should get a notification of this. However, mediators deal with this issue in different ways, since a broken agreement may have legal effects for the stakeholders. The mechanisms to announce this, sometimes are used by mediators and sometimes not.
- Mediation in Sweden does not have an overarching coordinating authority. The municipalities are responsible for the organization and consequently the structure varies. "Some municipalities have mediation offices, others buy these services from other municipalities, and some do not have any mediation services at all" (Wahlin & Jacobsson, 2017, as cited in Jacobsson, et al., 2018, p. 76).

Authors explained in the conclusion that the interest in the implementation of VOM in Sweden has decreased in recent years and they discuss the circumstances that may help this process to become stronger and to not disappear in the coming years. Among others, the permanence of VOM relies on the interest that the state and municipalities show in this activity as restorative justice in the near future. Both of them are urged to change their criminal policy concerning young people in Sweden (Jacobsson, et al., 2018).

Finally, the authors evoke the experiences from other countries in the region such as Norway, Finland and Denmark. These countries seem to have well-functioning mediation programs and could be a source of inspiration for Sweden (Jacobsson, et al., 2018). The great challenge seems to be the creation of a national body able to coordinate the implementation of this restorative model, but also towards a more fundamental transformation that addresses juvenile crime from a genuinely restorative approach.

In a previous research, Jacobsson, Wahlin & Andersson (2012) address the benefits that victims receive when they communicate with offenders directly during restorative encounters. They analyzed 25 mediation meetings in Sweden, 7 of them with offenders under 18 years. The central focus was in studying how willing victims "interact, communicate and position themselves in relation to the offender [---] to understand the content and process of the mediation conversations and the relative benefit to the victim" (Jacobsson, et al., 2012, pp. 229, 233). Conclusions from this study are that, overall, most of the meetings seemed to be respectful and meaningful. However, in a closer analysis the mediation policy in practice seems to be quite offender-focused and the opportunity to receive a lighter penalty might be a motivation to participate.

On the other hand, results from Reyes-Quilodran, Labrenz & Donoso (2019) report further characteristics of the process from the perspectives of professionals practicing VOM in Sweden. Professionals in this study consider this restorative practice as an opportunity for stakeholders "to take responsibility for their lives" (Reyes-Quilodran, et al., 2019 p. 262) and empower themselves through participation, as well as for reducing recidivism rates of young offenders. Furthermore, it addresses strategies to overcome the barriers, among which stands out the need of advocating for VOM as an alternative with judges and prosecutors and the creation of a central agency to organize VOM.

Finally, studies from Rypi (2016; 2017) in Sweden discuss the emotional aspect of mediation in its rhetoric, practice and interaction. The author explores the 'feeling rules' during encounters which, according to her, are the 'surface acting' that is encouraged from the institutional orientation for the development of meetings. This orientation has to do with how the participants 'should' feel and manage themselves. Management of anger from victims and offenders is emphasized in order to safeguard the well-being of parties. Rypi's study (2017) also shows that constraining mediators' role not to stage and control encounters is sometimes problematic since professional's control is expected to be minimal, and instead of that to encourage participation from stakes throughout the whole session.

All the aforementioned studies are important because they help to give an overview of the elements that have been mostly studied in the Swedish practice of VOM. Most of them suggest challenges during the practice, however few articulate the positive aspects in the practice that can strengthen this restorative process. This study seeks to highlight such aspects that exist within the current practice of VOM in Sweden.

2.4.2 Norway: Youth Punishment

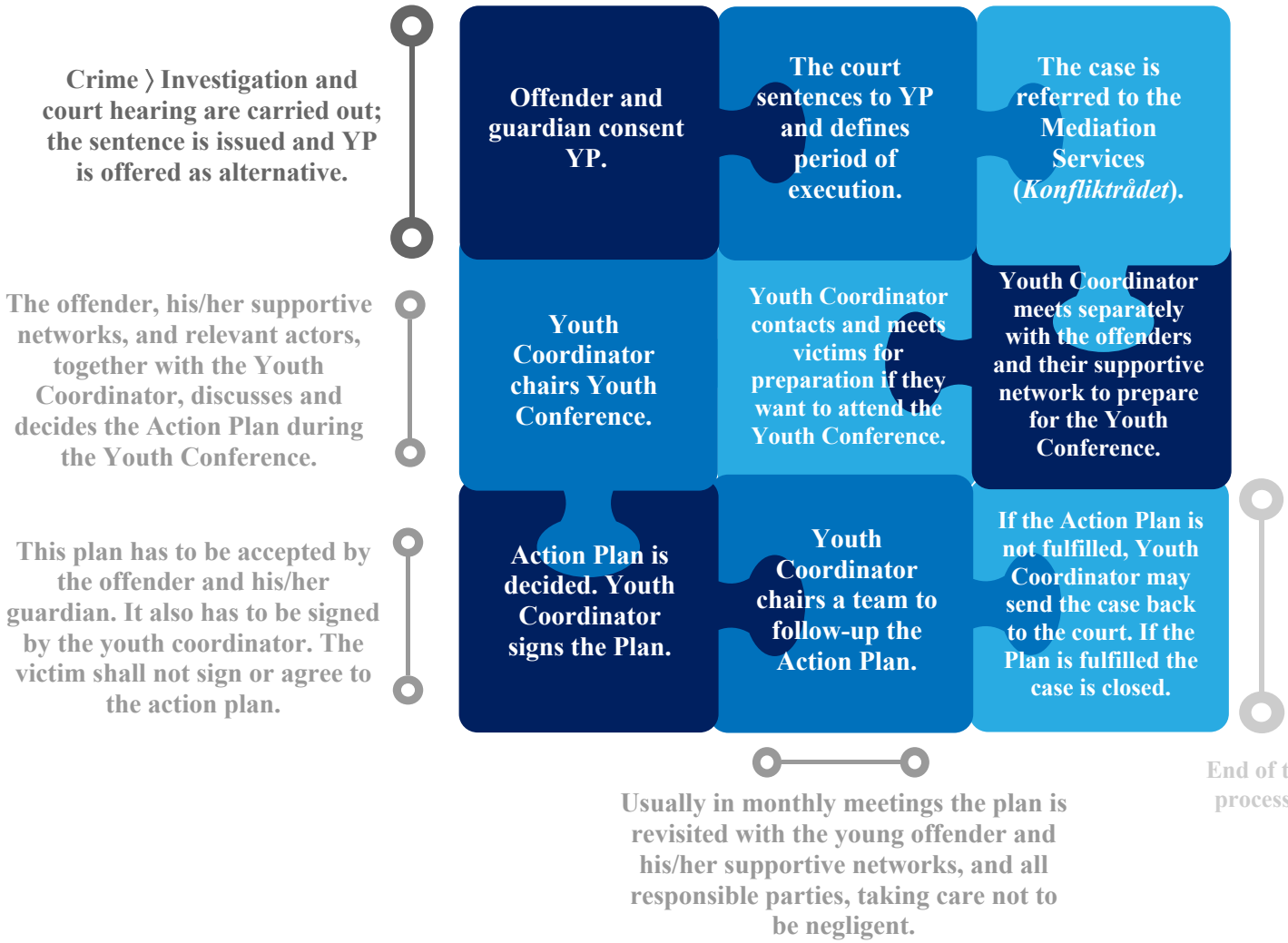
In Norway, for the most serious offenses, the youth justice sanctions for young people between 15 and 18 years are stipulated by the same court as the adults. This court determines the form of punishment and its duration. The execution period of Youth Punishment is between six months to two years, and in exceptional cases, three years. The different forms of punishment, from the most severe to the most lenient, are imprisonment, youth punishment, community service, and conditional sentence (Holmboe, 2017).

Most forms of punishment may be combined with other sorts of punishment. For instance, a community sentence may be combined with imprisonment. "Youth punishment, however, may not be combined with any other kind of punishment. The reason is that youth punishment is designed to keep offenders out of prison, and the legislator has therefore not allowed the youth punishment to be combined with a prison sentence" (Holmboe, 2017, p. 42). Therefore, YP is considered an *alternative* within the Norwegian child justice system and it is considered as a penal reaction reserved for most serious offenses.

Model 2 (self-made based on Holmboe, 2017; Rasmussen, 2018, pp. 155-156) presents an overview of the (ideal) implementation process of Youth Punishment in Norway:

Model 2

Overview of Youth Punishment implementation in Norway



According to Holmboe (2017) and Rasmussen (2018), Youth Coordinators play a key role throughout the whole process. Their participation in an ideal scenario, implies permanent support and accompaniment to the offender. The following are the specific actions and responsibilities undertaken during YP implementation according to these authors:

- Youth Coordinators have the responsibility to coordinated Youth Punishment from the Conflict Council services (*Konfliktrådet*) where they are based at.
- Youth Coordinators shall see to it that all relevant actors, such as correctional services, health services, child welfare services, the police, representatives of the school, and other persons connected to the offender or the victim are represented in the youth conference.
- Youth Coordinators may lead the discussion of the action plan, making sure that this plan goes according to the severity of the punishment appropriate for every case.
- Youth Coordinators shall make sure that the possible measures in the action plan may be sorted into four groups: *equip the offender for a crime-free life in society* (e.g. going to school or work, taking part in programs to prevent new crime)*; restorative* (e.g. giving non-pecuniary compensation to the victim, or avoiding contact with certain persons); *control* (e.g. that the offender meets regularly with the police or the correctional services); and *retribution* (the offender shall work for free for society -between 30 and 420 hours- through community sentences meted out by the court).
- If during the following-up period the offender commits serious neglects on the plan or they reoffend, the Youth Coordinator "[…] may either call for a new youth conference (with the consent of the correctional services and the police), or transfer the case to the correctional services and recommend that the case be brought before the court for further actions" (Holmboe, 2017, p. 55).

As to the Norwegian process, the conclusions reached by Holmboe (2017) highlight the value of Youth Punishment within the criminal system. However, he identified 'certain quirks and unforeseen consequences of the system' that may turn into difficulties for the offender (Holmboe, 2017, p. 58). The issue of consent to participation on the part of the youth offender is one of these quirks and it is of particular concern. This article was published in 2017, three years after this law started being enforced. At that time, the author concluded that YP could represent "an even better opportunity for the offender and the victim than it is today" (Holmboe, 2017, p. 58). YP as the newest penal action based on restorative justice seems to have opportunities to improve the participation conditions of both, offenders and victims.

After reviewing aspects such as voluntarism, the role of community, the offended party as well as the role of laymen and professionals, Rasmussen (2018) concluded that YP as restorative process should not be diminished to the meeting between offended party and offender. RJ in Norway also has to do with restoring the young offenders' relations with their family, the society and their opportunities and options to believe in a future without criminal behavior.

Fundamental works from Nils Christie must be also mentioned when trying to address restorative justice in Scandinavia. In Norway he is recognized as a predecessor to this field. The essay *Conflicts as Property* (1977) discusses the problem of how the governmental system and legal professionals as 'experts on norms' have 'stolen' the conflict from the victims and offenders.

To solve this problem one must consider the best way in which to reduce the dominance of those with specialized knowledge when dealing with conflict. Often times those with expert knowledge overtake the conflict, without allowing those affected take ownerships of the conflicts themselves. Thus, Christie invites us to take responsibility for our own conflicts and only when it is unavoidable reach out to the experts for assistance.

In *Words on Words*, Christie (2013) recalls conflicts as an important matter to any society because they encourage individuals and social systems to improve themselves. For this reason, he also calls for reflection on the ways in which we conceptualize and use some terms, such as 'restoration', 'justice', 'mediation', 'victim' and 'offender'. The conclusion invites us to use a terminology "less open to abuse and misleading expectations" (Christie, 2013, p. 19), especially when we talk about an institutional process able to 'restore'. Conflicts belong to the parties that create them, in this way the responsibility to resolve them does not belong to any external agent. Following Christie, we do not lose responsibility in our own conflicts' resolution.

To conclude, *Widening the net* (2015), one of Christie's last works focuses on the reevaluation of the powers conferred by the law on mediation (*Konfliktråd*) to the Conflict Council boards that carry out YP since 2014. These powers give the boards a degree of power and authority that might damage their core purpose. The participation of family, friends, teachers, neighbors, probation workers, police and other experts in these boards, might be given the authority to 'control the behavior' of child and young offenders as part of the new penal actions.

As can be seen, since 2014 with the entry into force of the Norwegian Conflict Council Act (2014), the current model has been trying to find new ways to enact RJ. However, it has also been criticized for the way it confers control authority to some members of the community. Professionals working with members of communities have an important task in the search for a better implementation and improvement of YP as a restorative model, that also seems to have several strengths.

CHAPTER 3. THEORETICAL FRAMEWORK

Chapter 3 presents the theoretical points of departure that served as an analytical framework for the data interpretation. There is an extensive amount of research aimed at explaining the responses to criminal offenses committed by children and young people. The presented theories are the most connected to the interpretation of empirical data collected from professionals in accordance with the aim of this study. Firstly, theoretical perspectives from Howard Zehr (1990; 2015), Tony F. Marshall (1999) and Lode Walgrave (2008) concerning *Restorative Justice* are described. Secondly, the *Reintegrative Shaming* theory postulated by John Braithwaite (1989) is presented. Both theories were chosen to guide the study since they are interrelated in various literary sources and the authors themselves acknowledge the mutual contributions that their works provide for the study of restorative practices. Finally, the *Scandinavian Exceptionalism* thesis from John Pratt (2008) is connected to the study as a medium to understand and explain professionals' perspectives specifically in Sweden and Norway as a region.

3.1 Restorative Justice

According to Tony Marshall (1999) the first scholar to create an integrated and comprehensive model of Restorative Justice was Howard Zehr. First, he wrote a small pamphlet called *Retributive Justice, Restorative Justice* (1985), and then came his book *Changing Lenses* (1990). Zehr explains that RJ is not a contemporary invention, but a response to injustice coming from ancient wisdom in some cultures, such as the Mennonite population in Canada and U.S.A (Zehr, 2015). In his work *Restorative Justice, Self-interest and Responsible Citizenship*, Lode Walgrave (2008) supports Zehr's vision with his historical review of indigenous populations in Canada, the United States, Australia and New Zealand. In those countries, traditional practices of their indigenous populations have deeply influenced their practices of RJ.

While an initial concept of restorative justice was presented at the introduction of this study, it is necessary to clarify that there is no single agreed upon definition. For this reason, it should not seem strange to find different attempts to answer the question 'what is restorative justice?' It has been defined as a paradigm, a model, a practice, and even been postulated as a theory of science (McCold & Wachtel, 2012). When speaking about restorative justice, I will refer to the works of Howard Zehr (1990; 2015) and Tony F. Marshall (1999). I will also place special importance on the work of Lode Walgrave (2008) as a contemporary author who utilized the writings of the aforementioned scholars. Regardless the differences that could exist between the approaches of these authors, it is possible to observe an agreement on basic principles that comprise the modern understanding of restorative justice. To explain them, it is necessary to 'unpack' the definitions from Howard Zehr (1990), Tony F. Marshall (1999), and Lode Walgrave (2008), since they were gathered to make up the initial concept at the beginning of this study.

It should be said that some definitions of RJ are *process-based,* and some are *outcome-based* (Doolin, 2006, as cited in Fornes, 2012; Walgrave, 2008). The difference is that those adhered to the *process* depend almost entirely on stakeholder's participation to achieve a restorative result. On the other hand, those adhered to an *outcome* may be more focused on obtaining a restorative result, regardless of the participation of all parties.

A process-based definition is given by Tony Marshall (1999) who has defined RJ as "a process whereby the parties with a stake in a particular offense come together to resolve collectively how to deal with the aftermath of the offense and its implications for the future" (Marshall, 1999, p. 5). An outcome-based definition comes from Lode Walgrave (2008, p. 21) who considers RJ as "an option for doing justice after the occurrence of an offense that is primarily oriented towards repairing the individual, relational and social harm caused by that offense".

Finally, an alternative and more process-outcome balanced definition comes from Howard Zehr (2015), who defines RJ as "a process to involve, to the extent possible, those who have a stake in a specific offense to collectively identify and address harm and obligations in order to heal and put things as right as possible" (Zehr, 2015, p. 40). Gathering conceptions of RJ developed from these authors in their written works (See Marshall, 1999; Walgrave, 2008; Zehr, 1990, 2015), it is possible to define some basic principles:

RJ understands crime as a violation, and not only as lawbreaking.

Crime as a violation goes beyond the legal notion of crime as a concept (Zehr, 1990). From an RJ perspective, crime has to do with the violation of individuals. This causes harm and obligations (Zehr, 2015), for all parties, but especially for victims. This harm might be attended to through the inherent concern for victims', offenders', and communities' needs. According to Zehr (2015), these needs are especially neglected by the retributive justice and they are of special concern for restorative justice. He points out needs in three different pillars:

> I. Victims need *information* about how, why and what has happened since the offense, more than legally-constrained information coming from a trial. They need truth-telling which implies the opportunity for victims to tell their story about what happened. They need empowerment which gives them back control over their property, body, emotions and projects that were taken away from them by the offense. Finally, they need restitution. which could be material or symbolic to the extent of the possibilities and of course depending on the severity of the crime.
>
> II. Offenders need to take *responsibility* for the action with the *obligation* to 'put things as right as possible.' They need encouragement to enhance personal competencies and for some of them, they need temporary restrain from third parties.
>
> III. Communities need a continuous building and re-building of their sense of community. They need to address crime from *mutual accountability* and promote healthy communities. Finally, they need to assure that the crime is not repeated and to undertake preventive actions.

RJ is an optional process, which means it is based on personal deliberation.

This deliberative factor is the voluntariness expressed through the willingness of the victim and the offender to participate in the process (Walgrave, 2008; Zehr, 2015). In contemporary restorative justice, willingness has been related to whether the restorative process represents an alternative or a complement to criminal justice. The voluntary nature of the participation, especially from the

offender, might be motivated by gaining something from the criminal justice system, such as a diminished sentence or milder punishment. On the other hand, according to Walgrave's empirical research on RJ practice, the participation from victims depends partly on the nature and how serious the offense is. Participation seems to be higher with young offenders than with adults (Walgrave, 2008). The reasons are not further explained; however, this may be one of the most positives aspects of restorative practices.

RJ requires the participation of stakeholders.

Stakeholders are those involved in the offense, mainly the victim and the offender, but also the community. For some authors, this triangular approach should have the justice agencies, organizations or institutions in charge of restorative processes in the middle (see Marshall, 1999, p. 5).

When it comes to label the participants, the roles of offender and victim might be easily assigned to the person who commits the offense and the person who is the target of that offense, respectively. It is not that easy when it comes to naming and deciding who plays the role of community. For Rasmussen (2018), in Norway seems to be represented by 'the public network' (Rasmussen, 2018, p. 175) that largely stand in for the role of community. On the other hand, Zehr (2015, p. 26) asserts that, in practice, RJ has tended to focus on 'communities of care' or micro-communities as "places where people still live nearby and interact with each other, but [also] the networks of relationships that may not be geographically defined". Family, friends, teachers, mentors, the police, and social services are some examples of what can be considered as the supportive network inserted into the community. The definition of community is seldom an issue in practical restorative justice as individuals clearly know what comprises their community (UNODC, 2006).

RJ focuses on the consequences, more than on the wrongdoing and punishment.

Due to the fact that RJ emphasizes consequences, as opposed to punishment, this leads to a focus on restoration after an offense is committed. Walgrave (2008) explains restoration as a type of reparation which intends to correct or remedy a situation that has degraded. However, he considers that sometimes a complete reparation is unachievable because the harm to be considered is multileveled, leaving irreparable consequences, and the restoration might vary between the symbolic, the material and relational.

According to Walgrave (2008, pp. 28-29) restoration processes ideally may lead to a reparation outcome that can be considered within a range from a 'deliberative restoration' to 'imposed reparation'. While in a deliberative restoration voluntariness of the stakeholders is present, an imposed reparation implies pressure specially on the offender to participate in the process. This idea is similar to Zehr's (2015) regarding the proposal to see restoration along a continuum ranging from 'fully, mostly, partially, potentially to pseudo-restorative'. Both authors agree that the greater the individual deliberation from stakeholders (expressed through willingness), the greater the possibility for fully restoration. This ideal scenario gives room to address the harm caused by the crime, and consequently the needs of stakeholders.

To conclude, it must be said that the restorative justice paradigm itself, assumes that in its own name a great debate can arise, since these 're-words' such as *restore*, *repair*, *restitute*, are often inadequate:

> "When a severe wrong has been committed, there is no possibility of repairing the harm or going back to what was before [---] It is possible that the victim can be helped toward healing when an offender works toward making things right […] Many victims, however, are ambivalent about the term 'healing' because of the sense of finality or termination that it connotes. This journey belongs to victims -no one else can do in for them- but an effort to put things right can assist in this process, although it can never fully restore" (Zehr, 2015, p. 27).

Even though an agreement in common principles has been reached, the social root of RJ will always allow the emergence of practices adapted to local circumstances. As a process deeply rooted in the lively field of conflict resolution and response to crime, RJ will be always an unfinished product capable of being enlightened by new ideas implemented by intuitive practitioners (Walgrave, 2008). Such characteristics are ideal to provide guidance in the analysis of professionals' perspectives in this study.

3.2 Reintegrative Shaming

John Braithwaite presented this theory in his book *Crime, Shame and Reintegration* (Braithwaite, 1989). In the theory's summary (see Braithwaite, 1989, p. 99), he places 'shaming' at the center of the scheme and put around it four key concepts: *reintegrative shaming*; *stigmatization*; *interdependency*; and *communitarianism*. From these concepts, only the first three are used as a theoretical point of departure in this study. Communitarianism, as a condition of societies that may not correspond to the Scandinavian reality, is not invoked as part of the analytical framework.

Reintegrative shaming

Shaming is defined as "all social processes of expressing disapproval which has the intention or effect of invoking *remorse* in the person being shamed and/or condemnation by others who become aware of the shaming" (Braithwaite, 1989, p. 100). The concept of *remorse* is what in later works will lead to the reflection on the 'shame-related family of emotions' such as guilt, regret, embarrassment, and remorse (Walgrave & Braithwaite, 1999, p. 2) from which *guilt* is discussed as part of the main emotions when undertaking RP.

The link between *shame* and *guilt* is fully addressed in *Guilt, Shame and Restoration* (1999) where the reflections of Walgrave & Braithwaite come together to redefine how these emotions are connected to restorative cognitions such as the full acknowledgement of responsibility from offenders and compassion towards victims. . In general terms, they conclude that, the relationship between shame and guilt can be studied at two conceptual levels: *shame* as an emotion and *shaming* as an action, both of them are equally important for the analysis of RP (Walgrave & Braithwaite, 1999). While the shame comes from the other's disapproval, the shaming will come from the self-disapproval and inner reflection on the caused harm.

In his later work *Shame and Criminal Justice* (2000), Braithwaite recognizes RJ as a 'social process' with many possibilities to be effective in crime prevention and deterrence. Unlike traditional justice, restorative justice puts "the problem rather than the person in the center" (Braithwaite, 2000, p. 294). Also, the denunciation of crime comes from people who are meaningful to the accused person instead of from someone who is not respected by the accused person. *Reintegrative shaming* is perfectly embedded into RJ, through communicating disapproval of the action, but respect for the offender. "The offender is treated as a good person who has done a bad deed" (Braithwaite, 2000, p. 282). Recognition of this 'bad deed' is attempted to be fostered through guilt.

From reintegrative shaming, the feeling of guilt and/or shame is not bad or god *per se.* But they can be "beneficial in certain contexts, devastating in their effects on others" (Braithwaite, 2000, p. 9). For this reason, this theory also reflects on the importance of differentiating between the practices of 'reintegrative' and 'disintegrative' shaming. This last one could be one of the most devastating within communities. Practices in Japan are used to illustrate reintegrative shaming ceremonies with ceremonies of repentance and reacceptance in a reintegrative way. Through the control of delinquency within schools, Braithwaite (2000, pp. 283, 284) illustrates how the intervention of teachers, parents and police is minimized and the control is delegated to the children "providing plentiful opportunities for children to acquire a 'good girl' or a 'good boy' identity and avoiding the attribution that children intentionally misbehave". A disintegrative way may come from actions that, with the purpose of inflicting guilt or shame on the offender, cause not only these feelings, but also their social segregation and/or stigmatization as explained in the following lines.

Stigmatization

The theory of reintegrative shaming posits that *stigmatization* should be understood as 'disintegrative shaming', somehow as an opposite of the efforts made to reconcile the offender with the community (Braithwaite, 1989). Stigmatization by the family, the school or other social actors can bring major risk factors as a consequence. Among others, it increases the attraction of outcasts to criminal subcultural groups These groups "provide social support for crime and weakens social control by the former against criminal activities (Braithwaite, 1989, p. 68).

Stigmatization also segregates those who are 'wrongdoers'. This segregation fosters and attracts those who have been similarly rejected and marginalized by the general culture. Consequently, stigmatization would be the most important of those circumstances that increase the attraction of individuals to criminal subcultures (Braithwaite, 1989).

Also, through an example taken from Masters (1997) who examines incidents within schools, Braithwaite (2000) exemplifies how stigmatization can threaten children when they are rejected within a school context. He concludes that vindication after the commission of an offense is crucial since when people shame us in a degrading way, this can threaten our identity. The search and implementation of non-stigmatizing RP may be considered as a sign of respect for the offender.

Interdependency

Interdependency is considered as a given condition of individuals that comes from their participation in social groups. They are interdependent when they participate in networks wherein they are dependent on others to achieve valued ends and others are dependent on them (Braithwaite, 1989, p. 100-101). The restorative practice maintains professionals, offenders, victims, and support networks in an interdependent relation towards justice.

For Braithwaite (1989), this term is directly linked with the *Control Theory* which draws from several authors, but especially from Hirschi (1969). Braithwaite considers Hirschi the most contemporarily influential author in control theories. In Braithwaite's words, "Hirschi saw social bonding as the key to delinquency control: if social bonds fail to develop or are broken, many will choose to engage in forms of delinquency which are rewarding to them" (Braithwaite. 1989, p. 27).

Hirschi's fundamental question is 'Why do we *not* commit crimes?' The meaning of asking this question invites the reader to focus the analysis on the individual who does not commit crimes, more than to observe the one who does. The answer that gives rise to his control theory is developed in *Causes of Delinquency* (Hirschi,1969). In this work, Hirschi (1969) posits that "delinquent acts result when an individual's bond to society is weak or broken" (Hirschi,1969, p. 16), therefore those who are integrated into society or have a strong bond with it, are less willing to commit crimes than those with a weaker bond.

Even though the present research study is not aimed at exploring causes of criminal behavior, what Hirschi's theory adds to the field of restorative justice is related to the 'elements of the bond'; *attachment*, *commitment*, *involvement* and *belief*. The first two are the most related to reintegrative shaming as one of the main theories for the analysis of data in this study. Both are cited and used by Braithwaite (1999) as a complement to his theory.

For the reintegrative shaming theory, *attachment* means "the emotional connection one feels toward other people, sensitivity to their opinions, feelings and expectations" and *commitment* is "the investment accumulated in relationships, the rational aspect of the social bond, [and] the stake in conformity" (Braithwaite, 1989, p. 27). Both, attachment and commitment, are pivotal concepts for the analysis of how RP works 'bonding' individuals to their communities.

According to Braithwaite (1989) Hirschi's control theory does not adequately answer the question 'attachment for what?'. Therefore, Braithwaite attempts to answer to this question by suggesting that attachments and commitments reduce crime when people make use of them to engage in reintegrative shaming. When guilt and shame are infringed with a constructive purpose of repairing a bond (with a significant person or group of people for the offender), this may provoke that the offender wants to establish new commitments towards his/her 'significant ones' to re-build the attachment to them. Through this idea, it is possible to identify a link that exists between the works and theories from Walgrave & Braithwaite (1999), who find certain nuances for their works within Hirschi's theory (1969).

3.3 Scandinavian Exceptionalism

In 2008, John Pratt published a two-part paper on *penal exceptionalism* in Scandinavia; *Part I: The Nature and Roots of Scandinavian Exceptionalism* and *Part II: Does Scandinavian Exceptionalism Have a Future?* The aim and scope of this study goes along with the topics raised from Pratt (2008) in the first part of his paper, hence, this work will be referred to '*Part I'* when talked about *Scandinavian exceptionalism.*

Pratt's (2008) thesis on penal exceptionalism in Scandinavia, is the outcome of research activities undertaken in Finland, Norway and Sweden in 2006. This study included visits to Scandinavian prisons and discussions with academics, policy makers, criminal justice practitioners, as well as observations of everyday life in these countries (Pratt, 2008, p. 119).

Using the author's own definition, 'exceptionalism' referrers to "low rates of imprisonment and humane prison conditions" (Pratt, 2008, p. 119). These conditions are considered 'exceptional' in contemporary societies where the pattern of punishment is the penal excess and imprisonment rates have turned into a 'nightmare' (Pratt, 2008). The exceptionalism from Pratt (2008) brings attention to his explorations of the reasons for the non-existence or the existence of low rates of crime in these societies.

Even though the thesis from Pratt (2008) mainly reflects on the criminal system aimed at adult offenders in Scandinavia, the prison policy to which he refers, concerns the same criminal justice system that responds to crime committed by minor offenders due to the lack of a specialized system in Sweden and Norway. In that sense, several of his thoughts towards the adult criminal system, can apply for the analysis of the same system but aimed at children and young people.

Pratt's (2008) analysis examines the various facets and conditions of the penal and prison policy emerging from Scandinavia and responds to the question of "what it was that made Scandinavian exceptionalism a possibility" (Pratt, 2008, p. 120). He raises a question similar to the one this study seeks to answer. However, his starting point dates prior to the 19th century. Through a revision of the geographical, political and economic conditions in Finland, Norway and Sweden, it is possible to understand the conditions that led to Scandinavian exceptionalism.

Pratt's approach explored the conditions necessary for the creation of the system. There are three main topics that contribute to the analytical framework of this research; the analysis of *cultures of equality*; *security and the Scandinavian Welfare State*; and what he called the *no need for spectacular punishments.*

Cultures of Equality

In Sweden and Norway, "the term *likhet* means equality *and* sameness, the two concepts being indivisible […] the 'sameness' between citizens ensured that the conduct of everyday life reflected passivity, consensus and an emphasis on collective rather than individual interests." (Pratt, 2008, p. 125).

According to Pratt (2008), in Scandinavia social conditions generally lay the foundations for high levels of egalitarianism that are reflected in narrower gaps when it comes to class distinction. These 'very flat class relationships' foster more social solidarity, high levels of trust, and social cohesion. An illustrative concept of this is the Norwegian custom of *dugnad* that "literally means 'voluntary work amongst friends', but, in practice, it relates to a broad range of mutually reciprocated, taken-for granted neighbourly activities and support" (Pratt, 2008, p. 125). Due to the interdependent relationships that restorative justice maintains, RJ is an ideal practice that fosters social participation within a culture of mutual support, in this case aimed at young offenders.

Security and the Scandinavian Welfare State

In Sweden and Norway, the Welfare State is expected to provide very high levels of security, stability and safety. According to Pratt (2008) these terms are indivisible and "collectively can be translated into *trygghet*, which has had a particular importance in this region" (Pratt, 2008, p. 127). This Welfare State also can be seen it in the *(2.2.2) Scandinavian welfarist approach to justice*, which emphasizes security, stability and safety, looking at the best interest of children and young people that should be attended by the justice system.

Through the Swedish concept of *folkhemmet*, Pratt (2008) illustrates the idea of a 'good home' that does not consider anyone as privileged or unappreciated. At this 'Swedish people's home' (*folkhemmet*), the base is togetherness and common feeling (Tilton 1990, p. 126 as cited in Pratt, 2008). *Folkhemmet* does not only connotate a personal home but is also a metaphor for a society in which everyone, young as well as old is taken care of. This kind of 'home' is the one able to provide not only security but major levels of welfare for everyone, including those who have done a bad deed.

No need for spectacular punishments

When addressing the Scandinavian 'style' of punishments within the criminal justice system, Pratt (2008) referred to Mathiesen (1974) ideas of abolition and humanitarian work, which have been also explored in *(2.2.1) KRUM - KROM movements and child justice in Scandinavia.*

When it comes to punishments, Pratt (2008) recalls the struggles regarding the prison conditions that Mathiesen addressed in the late 1960s. These struggles and the subsequent improvements to the prisons led to a system where 'highly symbolic spectacles of punishment' were not needed. "Prisoners were seen largely as just another group of welfare clients rather than dangerous outsiders [---] in societies in which equality and sameness were such striking characteristics, there would be few dangerous 'others'" (Pratt, 2008, p. 130). Therefore, prisons and punishment should not be thought as measures of suffering, but as models of decency and humanity, effective for assisting those who need it, including young people and children that may enter in conflict with the law.

The Scandinavian Exceptionalism thesis as an analytical lens in this research seeks to contextualize the practice of RJ with young people within a unique criminal justice system that emerged from specific historical, political, and social conditions. Such conditions have influenced the justice practices not only with adults involved in crime but also with children and young offenders.

CHAPTER 4. RESEARCH METHODS

Chapter 4 discusses the methodological choices of the research. Specifically, it presents the undertaken design, the criteria for the sampling procedure, and the description of data collection and data analysis methods. Furthermore, the justification of the design is explained and trustworthiness, limitations, and ethical considerations for the development of the study are presented.

4.1 Research design

The research design of this study employs a qualitative approach and seeks to specify the characteristics of the phenomenon that is subjected to an analysis (Sampieri & Collado, 2014).

The general question to be answered through this approach is 'What are the professionals' perspectives on the key elements and conditions that enable the practice of restorative justice with children and young offenders in Scandinavia?' Therefore, to understand the perspectives of these professionals, an interpretive epistemology orientation was considered essential for this study. More specifically, the chosen approach is hermeneutical phenomenology (Van Manen, 1990 as cited in Creswell & Poth, 2016) in which research is oriented not only towards the description of the concept or phenomenon, but a process in which the researcher "makes an interpretation of the meaning of the lived experiences" (Creswell & Poth, 2016, p. 78).

As stated in the introductory chapter, restorative justice is a process that involves sensitive social subjects such as crime, and harm. A qualitative approach was chosen due to the suitability to address such complex topics and because this kind of approach "emphasizes words rather than quantification in the collection and analysis of data" (Bryman, 2012, p. 380). Furthermore, qualitative studies often research specific contexts with the aim to explore and describe processes, subjective experiences, and their characteristics (Sampieri & Collado, 2014), which is also align with the aim of this study.

Interpretive orientation supports the core of this research and its intention to understand professionals' perspectives on the elements and conditions that allow restorative justice to be implemented with children and young offenders in Scandinavia. An interpretive orientation does not seek the mere description of the facts, but their understanding (Sampieri & Collado, 2014), therefore this study focuses on professionals as social actors in relation to the RP they perform.

A phenomenological approach was chosen for this project since it is concerned with the question of 'how individuals make sense of the world around them' and with social reality as the observational field of the social scientist, which maintains a specific interest for the 'human beings living, acting, and thinking' within the social reality (Bryman, 2012, p. 30). Through this phenomenological approach, this study seeks to describe the meaning of professionals' experiences implementing restorative practices with children and young offenders, emphasizing their perspectives about what the actual elements are within the Scandinavian context that make the implementation of RP possible.

Finally, it should be mentioned that the analysis will depart both from the chosen theoretical framework and from what is found in the empirical material. Hence, the study can be said to be using both, deductive and inductive theory (Bryman, 2012). This approach permits new and unexpected findings to come forth. This means that findings will, in some cases, go beyond the theoretical framework which is in line with the phenomenological approach.

4.2 Sampling Procedure

Empirical data was collected from interviews with six professionals. The participants were selected through a purposive sampling. This non-probability form of sampling means that "those sampled are relevant to the research questions that are being posed" (Bryman, 2012, p. 418).

In order to find the appropriate individuals, this study sought the participation of professionals, with practical and recent experience working through restorative approaches, specifically Victim Offender Mediation and Youth Punishment, with children and young offenders in Sweden and Norway. Professionals were located in governmental organizations responsible for carrying out RP, and public academic institutions which conduct research on this topic.

The literature review process helped with identifying organizations and academical institutions where these professionals could be located. They were reached by the public contact information found on the websites of these places. Twelve offices and twenty-two professionals in Sweden, and six offices and eight professionals in Norway were contacted by email with formal invitations to participate and the information of the study. These documents can be consulted in the *Appendix 2* and *Appendix 3* of the present study. From these, four Swedish and seven Norwegian professionals replied to the invitation.

The original sample was planned for ten participants, following methodological suggestions from Dukes (1984, as cited in Creswell & Poth, 2016) who recommends studying 3 to 10 participants when using phenomenological approach. Ten interviews were confirmed at the beginning, however due to the circumstances caused by the COVID-19 outbreak between March and April 2020, four people declined their participation and the final sample was made up of six informants, two in Sweden and four in Norway. An extensive literature review was included in replacement for limited empirical data.

All confirmed professionals had previous experience and first-hand knowledge of the implementation of RP, mainly as a response to mild offenses, not serious crimes. All of them were or currently are Mediators and/or Youth Coordinators at the governmental organizations responsible for RP and they have chaired several restorative meetings as part of VOM and YP processes. It should be noted that the term 'professionals' that is used throughout this work encompasses both profiles.

Table 2 provides the professionals profile of those who participated in this study:

Table 2			
Professional profile of the participants			
Participant	**Gender**	**Background**	**Work experience in RJ**
Professional 1	F	Sociology	12 years
Professional 2	F	Social work	14 years
Professional 3	F	Sociology / Criminology	Not mentioned
Professional 4	F	Lawyer	10 years
Professional 5	M	Philosophy	14 years
Professional 6	M	Sociology	4 years

Due to the closeness of the research topic with the legal field, I identified a need to include experts on Criminology and Law. The participation of professionals from various fields contributed to a better understanding of the practices in relation to the legal framework. This goes along with what Sampieri & Collado (2014) state regarding the participation of experts and how this may increase the probability not only to find new relevant material and accurate information, but to represent the complexity of the studied subject.

It is worth mentioning that to analyze participants' understandings and perspectives in detail, the relatively low number of professionals were favorable for a deeper analysis. This corresponds with what Daymon (2010) notes; that for qualitative studies, "the main factor is that participants provide us with a deep sense of comprehension of the environment and the research subject" (Daymon, 2010 as cited in Sampieri & Collado, 2014, p. 385).

4.3 Data Collection

Semi-structured, individual interviews was chosen as an appropriate way to collect data since its relatively unstructured nature provide insights into how research participants view the world (Bryman, 2012). This was essential in order to elicit valuable information from professionals in the restorative justice field as their views were windows to look at participants going through RP along different stages.

The COVID-19 outbreak however changed the way in which data was collected. The interviews that initially were planned to be conducted in person, were changed to video-call format. All the interviews were carried out through encrypted platforms such as 'Skype' and 'Atea Anywhere'. Although the interviews were not carried out face to face, it was possible to collect rich empirical material. The participants showed wide availability of time, as well as an adequate handling of the video-call platforms, so this facilitated a fluid communication.

Following methodological recommendations from Bryman (2012), an interview guide with open-ended questions, which can be consulted in the *Appendix 6* of the study, was prepared in advance. Interviews were focused on gathering perceptions from professionals on three domains: understanding of basic concepts, implementation experiences and the current RP. The variety in the professionals' backgrounds also allowed to elicit a variety of perspectives on common topics, such as experiences in the field through particular cases, challenges and opportunities within the system.

During the interviews there were also follow-up questions which were posed in such a way that the participants could described in more detail the nature of the situation or concept they were talking about. There were also questions that concerned the professionals' direct experiences, beliefs and convictions about situations and concepts. Flexibility from semi-structured interviews was an advantage to clearing up inconsistencies in answers and ask further questions in response to what was considered significant replies. These further questions could lead to the formulation of new related topics, but it was assured that the follow-up questions did not to lose sight of the aim and purpose of the study, following methodological recommendations from Sampieri & Collado (2014). Each interview lasted between 45 and 80 minutes. They were conducted in English, video recorded, and transcribed manually before moving on to the data analysis.

4.4 Data Analysis

Thematic analysis was used to analyze the qualitative empirical data obtained from the interviews. This method provides "a highly flexible approach that can be modified for the needs of many studies, providing a rich and detailed, yet complex account of data" (King, 2004 as cited in Nowell, Norris, White & Moules, 2017, p. 2). Also, this analytical approach was useful for summarizing key features of the data set, in a way that helped me to take a well-structured approach to handling data, and to produce a clear and organized final report (King, 2004).

A denaturalized transcription was considered appropriate for this study, this means that during the process there was a removal of the extraneous noises in the interviews resulting in 'clean' data which provides precision in the meanings and perspectives made during the interview (Oliver et al., 2005 as cited in Nascimento, & Steinbruch, 2019). The transcription and coding processes were done manually and written down in a Microsoft Word document as the relatively low number of interviews allowed a more thorough and detailed handling of the information. Each of the six interviews were read and listened at least twice to obtain a sense of the whole.

For the data process, *The Coding Manual for Qualitative Researchers* (Saldaña, 2015) guided the coding method in the thematic analysis of this study. From the 32 coding methods identified by Saldaña (2015), 'descriptive coding' was the most suitable method for the thematic analysis in this research since this kind of coding summarizes in a short phrase the basic topic of a passage of qualitative data. These codes are aimed at identifying the topic, not at abbreviating it (Saldaña, 2015). This way it was possible to identify common topics among professionals in order to establish specific elements and conditions that permit RJ in Scandinavia and not necessarily in each country. Since this research does not intend to be a comparative study, but to gain knowledge from a regional approach, generating descriptive codes helped to determine the frequency of codes from each participant.

Only if a code was mentioned and discussed at least once by a participant from each country, this code was considered to generate a category of analysis. In other words, the final categories of analysis come from the shared perception between at least one Swedish and one Norwegian professional. It is worth mentioning that all categories were discussed by between three and six professionals.

As mentioned above, the coding process was carried out manually, hence the general strategy for assisting this method was "a few of Microsoft Word's basic functions [that] can code directly onto data" (Saldaña, 2015, p. 29). For this study, relevant meaning units of text were selected and a comment, which contained the descriptive code for the datum, was inserted next to the data. The final meaning units were condensed into a single document, printed and cut in pieces. The relatively small-scale of data allowed for this. Saldaña (2015) recommends that for studies with such small amounts of data one can code on hard-copy printouts instead of a computer monitor as this can be less complex. This hardcopy approach was straight forward and gave me more control over the data.

'Pieces' with meaning units were handle manually in order to create categories, that were clustered into sub-themes and finally themes. As a researcher, I found at these "old-school" ways of working quite enjoyable/useful to my analysis, something that Saldaña (2015) confirms: "There is something about manipulating qualitative data on paper […] that gives you more ownership of the work [---] Touching the data gets additional data out of memory and into the record. It turns abstract information into concrete data" (Graue & Walsh, 1998, p. 145 as cited in Saldaña, 2015, p. 30). Evoking the title of this work, conducting the analysis of empirical data this manner, was literally a process of 'piecing a puzzle.'

The categorization and thematization process was made in a table. Following methodological recommendations from Saldaña (2015), the various codes were compared based on differences and similarities and sorted into different categories and brought together into 15 categories, 5 sub-themes and 3 themes. The emerged results are presented in *Table 3* below.

Table 3

Results of data analysis

Example of the analysis process		Summary of the emerged categories, sub-themes and themes			
MEANING UNIT	**DESCRIPTIVE CODE AND INTERPRETATION**	**CATEGORIES**	**PROFESSIONALS WHO DISCUSSED THE CATEGORY**	**SUB - THEME**	**THEME**
I would say that responsibility is the key word, and a bit of shame. To take responsibility for his or her actions and really face the consequences. So that could be the first thing to actually restore. (P1)	Code: Responsibility from offender Interpretation: To take responsibility for actions is essential to initiate the restorative process.	Responsibility from offenders	P1, P2, P3, P4, P5, P6	Responsibility-oriented understanding of restorative justice	Professionals' awareness of RJ
		Recognition of the wrongdoing			
		Mutual recognition and communication	P3, P2, P4, P5		
		Focus on children's well-being and no-imprisonment	P1, P2, P3, P4, P6	Children's needs at the core	
		Characteristics of YOF	P1, P3, P5, P6		
		Background of YOF and offenses	P1, P3, P4, P6		
A lot of people say yes and if they say no, it's not my job to convince them. Because if you are a victim of crime, why should we convince you to meet your offender? That's not right. But what we can say is that this person is not ready yet and they don't want to talk to their offender now. (P5)	Code: Voluntariness from victim Interpretation: Victims do not always accept invitations to participate and the institution should not force them to accept them.	Pre-meetings	P1, P2, P3, P4, P6	Highlights of the process	Meaningful implementation of RJ
		Importance of time	P1, P3, P6		
		Restorative meetings	P1, P2, P3, P4, P5, P6		
		Restorative agreements			
In some cases, we really have to use a lot of resources to facilitate this [the restorative process], in the way that we make sure that we are also taking care of the victim of course, […] because they can be afraid to meet up later and get knocked out again. (P6)	Code: Victims' preparation for the process Interpretation: In order to prepare the victims for restorative processes and to prevent possible risks for victims, a lot of resources are used from professionals.	The offender will	P1, P2, P3, P4, P5, P6	The 'three wills', the big challenge	Challenges and opportunities of RJ
		The victim will			
		The political will	P2, P4, P5, P6		
		Participation of professionals	P1, P2, P3, P4, P5, P6	The Scandinavian opportunity	
		Involvement of community	P1, P3, P4, P5, P6		

4.5 Trustworthiness

According to Bryman (2012), some qualitative researchers have proposed that qualitative research should be evaluated according to other criteria than the concepts of *reliability* and *validity* that are used in relation to quantitative studies since these terms are often "inapplicable to or inappropriate" (Bryman, 2012, p. 48) for evaluating qualitative approaches.

Lincoln and Guba (1985 as cited in Bryman, 2012, p. 49) propose *trustworthiness* as a criterion for assessing qualitative research and determine how good a study is. Trustworthiness is made up four elements: credibility, transferability, dependability and confirmability.

Credibility responds to the question 'how believable are the findings?' This study tries to reach credibility through the transparency and detailed explanation of the parts that comprise it. Specifically, the methodology and findings presented correspond to what was actually discussed during the interviews.

Transferability questions whether 'the findings apply to other contexts?', which certainly was not the aim of the study, due to its regional approach. Even though the small sample of participants does not allow this study to be portrayed as a general representation of Scandinavian restorative justice, the findings represent a solid base for understanding the elements and preconditions for working with restorative justice and for providing inspiration to professionals and stakeholders in other countries.

Dependability looks at whether 'the findings likely to apply at other times?' Certainly, the methodology and research design could be re-applied in future follow-up studies aimed at re-cognizing how RP work in Scandinavia. However, elements that change over time, such as laws, procedures, individual professionals, organizations and other social actors might lead to somewhat different results as the social, legal and political dynamics are not static.

Finally, *confirmability*, responds to the question 'has the investigator allowed his or her values to intrude to a high degree?' This is answered to some extent in the introductory part of this research through the topic *1.7 Researcher's position*. In addition to that initial reflection, I should mention that even though my personal experience has shaped what I consider a 'passionate' approach to restorative justice, the experience itself and the values rise up from it, are far from 'intruding to a high degree' the results of the research as a whole.

4.6 Limitations

Expressing the limitations of the study is a task that tends to be avoided by some researchers since limitations may be perceived as detractors of the research itself. Nonetheless, expressing them provides validity and rigor to the research process (Sampieri & Collado, 2014). The limitations in this research that are important to consider have to do with three main aspects: language, timing and what I call 'belongingness'.

Language is maybe the most relevant limitation as it is related to oral and written information which cannot be accessed due to lack of knowledge of the local language. The literature review process, for instance, did not include Swedish or Norwegian texts, which might result in a loss of valuable information and previous research on the subject.

In order to access the Swedish and Norwegian legislation, it was necessary to use the official databases, *Risksdagen* and *Lovdata*. Legislation of both countries was found originally in the local language, so with the help of the automatic translators, installed by default in the personal computer, various legal documents were searched and translated. These translations might be unprecise affecting the understanding of certain concepts.

Last but not least with the language barrier, interviews were carried out in English, a language in which all participants are skilled, however some of them tended to switch the language into Swedish or Norwegian when trying to find accurate words or concepts during the discussion or when talking about certain legislation. Later during transcriptions, these words were translated to English. To address some of the limitations related to language, the supervisor of this thesis read the text and commented on the used concepts, and on the translations that have to do with names of legal documents.

The timing of this research coincided with COVID-19 outbreak, which led to some professionals delaying answers and declining invitations to participate in the study. To obtain the final sample of 6 people, several follow-up emails had to be sent, and even some interviews took more than 4 weeks to confirm. However, as stated by Sampieri & Collado (2014), with limitations within the process sometimes it is necessary to perceive them as opportunities. In this case, the final number of participants was turned into an opportunity that allowed me to gain an in-depth knowledge of the empirical data collected. Hence, it was possible to assign each interview the necessary time for a more profound understanding of its patterns and nuances. From this point of view, I would consider that the final sample of participants impacted the findings in a 'positive' way. Having a larger sample as the one initially planned, the handling and analysis of the collected data would have been less detailed, taking into account the delimitation in time for doing it.

Finally, as a foreign researcher, lack of 'belongingness' to the region might be a limitation since I do not have the knowledge and perceptions of the regional system or society as a whole. With the intention to compensate such limitation, an extensive narrative review was carried out. Due to the limitation of words in this research, not all sources were presented in the corresponding chapter, however, they provided an overview that might be enriching for the final work. Undertaking research activities in countries different than mine, maybe also allowed me to enter the field of research without the possible biases that someone who has been in contact with the system throughout his or her life may have. This less-biased position as a foreign researcher, might support the new perspectives and understandings that could come from this research.

4.7 Ethical considerations

This study was ethically approved according to the rules and guidelines of the Department of Social Work at the University of Gothenburg. In order to fulfil specific ethical guidelines from the Degree report's handbook distributed by the University of Gothenburg, this study also reviewed and

referred to the CODEX rules and guidelines for research in Sweden, paying special attention to guidelines for 'handling personal information' taking special care of all kinds of information that directly or indirectly can be attributed to a living, individual physical person. It can be information on the person's name, personal number, birthdate, nationality, education, family or employment conditions (CODEX, 2019).

Thus, ethical considerations were made to protect the informants and their identities during interviews, ensuring anonymity and obtaining individual's consent. To do so, information about the study and general features of the research were provided attached to the email invitations sent to participate in the interviews. Once participants replied accepting the invitation, the informed and declaration of consent forms were provided prior to the interviews. Due to the circumstances given by the COVID-19 outbreak, it was not possible to collect signed consents; however, these were given verbally at the beginning of video-call interviews. A brief introduction was read aloud to which all the participants had to assert orally in order to start the video/audio recording of the interview. These documents can be consulted in the *Appendix 4* and *Appendix 5* of the study.

During the interviews, the participants were asked to share some cases in which they had participated in order to exemplify successful and not-so-successful restorative practices. During the conversation, prior to the response, it was clarified that as part of these examples, no personal information or details of the clients were required. The professionals who decided to share some examples were extremely careful and no personal or identity data of the clients was shared by them in the conversation.

Some of the shared cases gave an account of how ethically important it is to do research that include participants' perspectives to understand their views on the process and how to support adequate practices with young offenders. Gathering perspectives from victims, offenders and other interested parties might lead to knowledge about what actually works during the restorative process.

Ethical aspects regarding the collected data were also considered during the interviews. These aspects are related to the sensitivity and value of the gathered information. Naming it just as 'data' or 'information' seems to be unfair and limited, considering what the professionals actually shared. As Rypi (2016) described in her study, restorative justice and its multiple processes are practices of 'managing hearts'.

Such a description makes sense when listening to some of the restorative 'stories.' It is possible to realize that the professionals' point of view is a window through which it is possible to see how personal and human the restorative work with children, young people, their families, and the community members can be.

Through the professionals' view, it is possible to obtain a perspective from the actual management of conflicts. This invokes a deep respect for the previous and current efforts the participants have made and still make in order to implement and maintain restorative justice. As a researcher, accessing and working with such perspectives certainly implied an ethical responsibility to capture it as purely and respectfully as possible.

CHAPTER 5. FINDINGS AND ANALYSIS

Chapter 5 presents and analyzes the findings that emerged from the gathered material and explores them by means of the theoretical framework presented in chapter 3. Through the analysis, three broad themes were identified: I) *professionals' awareness*; II) *meaningful implementation*; and III) *challenges and strengths of restorative justice.* Each of these themes encompasses sub-themes that include summaries and quotations from the interviews. To avoid misinterpretation, some brackets with unspoken subjects alluded during the conversation were added to some quotes. Brackets with an ellipsis represent that some words are left out to shorten the statement, thereby highlighting the most important part of it.

This study explores and gains knowledge from professionals' perspectives on the elements and conditions that *enable* the practice of restorative justice in Scandinavia. For this reason, the presented themes and sub-themes are aimed at presenting the findings on the elements that permit the conditions for the restorative practice. Important elements that professionals perceive as challenges that may *hinder* the implementation of RP are also presented as a theme in itself. The chapter ends by discussing some findings that can be interpreted as opportunities for restorative justice in Scandinavia.

5.1 Professionals' awareness of restorative justice

This first theme arose from the understanding and awareness that professionals expressed on restorative justice which is based on two main elements: responsibility and children´s needs. *How do professionals understand restorative justice in relation to children and young offenders in Scandinavia?* is the question this first theme attempts to answer.

5.1.1 Responsibility-oriented understanding of restorative justice: "It is not like playing chess with somebody else playing for them."

One important element for the professionals' understanding of restorative justice is the acknowledgement of responsibility from offenders. This finding is the first to be highlighted because all the professionals shared a similar awareness on this point. From their statements it is possible to infer that responsibility and recognition of the wrongdoing, trigger the restorative process.

> *I would say that responsibility is the key word, and a bit of shame. To take responsibility for his or her actions and really face the consequences. So that could be the first thing to actually restore. (Professional 1)*

> *Restorative justice, to me it means that if you have committed a crime you need to take responsibility for what you have done […] So, I think it's very helpful when you want young people to realize that what they have done was not okay. (Professional 3)*

In line with this, Walgrave (2008) states that responsibility is central to both retributive (or 'traditional') and restorative justice, however the difference lays on the active responsibility that the offender takes for the offense when they face RP. This kind of responsibility includes the obligation to contribute actively to the reparation of harm (Walgrave, 2008). For Zehr (2015), responsibility is seen as one of the offender's major needs. The traditional criminal justice system has taken away the element of responsibility, in the sense that the system is only concerned with making sure the offender gets punished, but not holding them accountable for the harm caused by their actions. Therefore, responsibility is often discouraged in the so-called retributive justice system where being punished does not necessarily mean taking responsibility.

From the professionals' point of view, the offenders' responsibility serves as the catalyst for restorative justice. Through the act of taking responsibility, there is also an attitude of recognition towards the wrongdoing. This recognition lays the groundwork for both the offender and the victim to be heard and understood in a wider perspective than allowed for by traditional justice and may lead to a common understanding of the harm and suffering (Walgrave, 2008). Professionals were clear when claiming that this possibility highlights an important characteristic for understanding restorative justice as *"something more than alternative justice" (P5).*

> *I think one of the main differences is that [RJ] is taking the crime out of the system, bringing it out from courts, from the lawyers and then find a way of giving both, the offender and the victim, a voice. (Professional 4)*

> *That is one positive thing with restorative justice, because it makes that possible in a way that it is not in the criminal system, because in the criminal system you focus only on this one act [the crime], and here is room for more discussion. (Professional 5)*

Together with the possibility for offenders to tell *"their part of the story" (P3)*, also comes the opportunity for victims to express how they have been affected by the crime and 'bring back' the control that has been taken away from them by the offenses. "Control over their properties, their bodies, their emotions, their dreams" (Zehr, 2015, p.15). Thus, some professionals feel they are important figures in offering the restorative process to victims because many can still remain sensitive after the criminal act. Walgrave & Braithwaite (1999) reinforce this perspective when claiming that, at the beginning of the path to restore victims' control it is crucial to let them know that their suffering has been taken seriously and measures have been undertaken to address their concerns. The message must be clear: "Yes, a wrong was suffered and we must do our best to put it right [...] we are embarked upon a ritual premised on the agreement that a wrong has occurred for which others will be asked to take responsibility" (Walgrave & Braithwaite, 1999, p. 7).

When professionals were asked about what does restorative justice mean to them, all of them shared 'offender responsibility' as a central element, but they also raised other elements as important for their own definitions. The 'open door' for a dialogue and what they called 'recognition between the parties' involved is an important element within their elaboration of the meaning of responsibility. From the interpreted data, it is possible to grasp the idea of a mutual recognition that endows the parties with a shared responsibility to address the aftermath and the restoration of harm (Marshall, 1999; Walgrave, 2008; Zehr, 1990).

> *Because here [at the institution in charge of RJ] is a possibility for both parties to do something, and it is not like playing chess with somebody else playing for them. Here you direct yourself and there is a chance for both parties to really meet and to do something about the situation, to restore it and to heal. (Professional 1)*

This shared responsibility stands out within the perspectives of restorative justice from professionals. For them it also represents an essential element that opens the door for an encounter and dialogue. Certainly, this scenario brings an opportunity of what may lead to what Walgrave (2008, p.30) recognizes as 'moral justice' in which justice is considered "what those concerned experience as such." Or in Christie's (2013, p.16) words "what is relevant is what the parties find relevant," thus it may set the stage for a desirable, fully restorative process.

As Howard Zehr (2015) asserted in his *Little book of Restorative Justice*, RJ is not a map that it indicates a route, but its principles can be seen as a compass to guide the process, since all processes, such as VOM and YP in Scandinavia, are to some extend connected to the culture in the region. Therefore, these processes cannot be expected to be exactly the same as elsewhere. From the professionals' assertions, the acknowledgement of responsibility from offenders seems to be fundamental piece to make sense of restorative justice. However, there is also an important piece that professionals in Scandinavia need to address in order to recognize their practices as restorative. This is the recognition of children's needs as part of the process. The next sub-themes elaborate more on this.

5.1.2 Children's needs at the core: "That's what it's all about. How can we make their lives better".

As outlined in the literature review, the ratification of the UNCRC in Scandinavia strengthened a more comprehensive policy to connect child and restorative justice through the national legislation. However, Norway and Sweden have had a notable background concerning the advocation of children's rights and incorporating the UNCRC into their legislation was not the first approach to the subject. Both countries were pioneers for children's rights, implementing the Ombudsman for children as a spokesperson for children's rights in 1981 and 1993 in Norway and Sweden, respectively (Eide & Winger, 2005).

The findings confirm that the awareness of restorative justice integrates the recognition of the rights of the child as a fundamental part of the restorative system. In other words, restorative justice in Scandinavia is conceived as an approach aimed at centering around children's well-being. This approach brings professionals the opportunity to use RP as a platform to work beyond the committed crime. And it broadens their perspective to build more comprehensive processes where children's needs are at the core.

> *I would say that we do actually look at what are these teenagers' difficulties, what are their struggles and how can we help them to get a better life. Cause that's what it's all about. How can we make their lives better. (Professional 3)*

The same professional provided some examples of what may happen once a child/young offender has committed to a restorative justice process:

> *We might say that we want you to talk to a psychologist or we want you to go to anger management classes. And if a person [child/young offender] comes here and her or she has struggles with drugs, then we might say, okay, you have to receive treatment and work with this. (Professional 3)*

This support is offered according to the assessed characteristics of the children and the strategies also depend on the type and severity of the offense they have committed. What is important to highlight in the example the professional provided, is the focus of the attention that goes beyond the criminal action. This is a characteristic of the Scandinavian *welfarist approach* to justice that stresses the needs of each child (Lappi-Seppälä, 2011). This characteristic of restorative justice processes in Scandinavia goes along with what the UNCRC emphasizes on having the best interests of the child as a primary consideration and concern, especially when it comes to children that are subject to the criminal justice system. This is specifically reflected in articles 37 and 40 of the international treaty which "[…] acknowledge that children are more vulnerable and possess different needs than adults, particularly in the areas of care and upbringing" (Grøning & Sætre, 2019, p. 168).

As mentioned before, the UNCRC permits the detention and imprisonment of children only as a last resort. However, prison in Scandinavia is not seen as an alternative for children who commit crimes since imprisonment is a condition 'difficult to reconcile' and align with the principles of the CRC (UNICEF, 1989). In one of his last articles Christie declares (2015, p.109): "we dislike intensely sending young people to prison in my country [Norway] and have indeed very few there below 18." In addition, Andersson (2014) asserts that imprisoning young offenders does not receive support for most of the professionals in Sweden and it is actually seen as counterproductive to the extent that it promotes violence.

The overall well-being of children in Sweden and Norway is quite high because they are among the countries with the highest standards of the rights of the child (UNICEF, 2013). It is notable that the professionals considered restorative justice a significantly better alternative to child imprisonment. They held this view regardless of whether it was incorporated into the criminal system as a penal action or if it is used as a preventive approach.

> *I would say that restorative justice is a good way, because I am pretty sure that a lot of these kids would have gotten a small sentence if they wouldn't come here [at the institution in charge of RJ]. And in my opinion, that's not a better alternative. (Professional 2)*

It should be noted that considering restorative justice this way does not mean that it is conceived by professionals as an easy way out. Rather, it is viewed as a scaffold for meeting the specific needs of children who are identified as individuals who lack resources and who face various risk factors. These perspectives have been confirmed in previous studies (Andersson, 2014; Dünkel, Horsfields & Păroşanu, 2015; Goldson, 2000; Muncie, 2004).

The findings of this study cannot conclude that all children and young offenders in Scandinavia face unfavorable conditions. However, it is quite clear that the professionals who participated in this study generally work with children that *"come from difficult backgrounds" (P1).* These

children and young offenders have faced situations such as domestic violence, overcrowded homes, school dropout, and drug consumption, among others. A few participants pointed out that sometimes the children and young offenders live with *"well-functioning parents" (P6)* who just have not found enough resources to set limits. But others spoke about children whose parents and other responsible parties have given up and *"left them adrift" (P1).*

> *Mainly they [children and young offenders] are themselves victims for, inadequate childhood. There are often parents or social services or schools that haven't done what they should have done. So, they have been dropped somehow and they have placed 'between two chairs', as we call it, then no one takes their responsibility and really grab them up and take care of them […] that is the kind of youth that we work with. (Professional 6)*

It should be noted that none of the professionals in response to how would they define a child or young offender, used disqualifying or negative terms towards these children. Rather, the findings show that their work as professionals within the field of restorative justice translates into the well-being of child and young offenders, defining them as children with different needs. Professionals explicitly acknowledge the context that some of the children and young offenders come from, which affect the long-term outcomes planned in the restorative process.

Unfortunately, the perspective not biased by the prejudice of the 'wicked child' cannot be taken for granted, nor can it still be considered a global trend. Many children and young offenders in other regions and countries continue to be conceptualized and consequently treated 'misbehaving' individuals, losing perspectives of the contexts from which they come (For a detailed review on this topic see *'Children's Experiences of their Rights when Deprived of Liberty'*, in United Nations, 2019a).

5.2 Meaningful implementation of restorative justice

A second major theme concerned the professionals shared experiences facilitating or accompanying RP. Some of them shared examples from cases, although they did not share any identifying information. This theme presents the main stages that professionals identified as key to the restorative process. *What are the professionals' perspectives of implementing restorative processes?* is the question that this second theme is aimed to explore.

5.2.1 Highlights of the process: "The nature of the process".

As outlined in the general overview of VOM and YP, professionals intervene directly throughout the stages of RP. Although VOM and YP are made up of different stages, the professionals' descriptions focused on three of them: *pre-meetings*, *restorative meetings*, and *agreements*. As can be confirmed in *Model 1* and *Model 2*, either in VOM or YP, professionals hold individual pre-meetings with the victim(s) and the offender(s) in order to provide them with information about the characteristics of the restorative meetings (called 'mediation meeting' in VOM and 'youth conference' in YP). Also, both processes ideally reach a stage of agreements (called 'agreement' in VOM and 'action plan' in YP). In order to describe each stage, some professionals shared some cases they have worked with, from which important information was recovered for the analysis.

With less detailed information, some insights were also shared about the judicial investigations or legal 'steps' prior to or during the process. In this regard, it should be noted that neither mediators in Sweden nor youth coordinators in Norway serve as police authority or prosecutors (Holmboe, 2017; Storgaard, 2005). The information they shared about the legal procedures was useful to contextualize the process, but its analysis goes beyond the scope of this study, thus it was not included in the findings.

The professionals recognized how complex it can be to carry out a restorative process for young offenders. This is especially true when they are children whose maturity can greatly impact the process and vice versa. Facing the consequences directly and dealing with difficult encounters could be overwhelming for young people. Nonetheless, the professionals also recognized that devoting time and preparation to each stage and each person involved are essential to the process.

> *I think we should not be too afraid to sanction children with a restorative justice reaction. But we should be really aware of the nature of the process. Children should be prepared to attend these meetings before they do. And, of course, you should know that the victims really want to do it and that they have good enough support from other parts during the process. (Professional 4)*

The complex nature of the restorative process is something that must be acknowledge. RJ can be overwhelming for some participants, especially if they are children or young people or if the victims are not fully prepared to face their offenders. Hence, the importance of properly preparing each of the stages and not reduce the whole process to a simple meeting.

5.2.1.1 Pre-meetings: "Getting the stage ready".

As discussed earlier, offenders taking responsibility triggers the restorative process. Once the offender is willing to recognize the wrongdoing, professionals get in contact with victim(s) to offer them a pre-meeting. The professionals did not offer many details about the means or the information they discuss with victims at this pre-meeting. However, some of them mentioned that during this first encounter they can see *"how willing the victim is to participate" (P2).*

> *There are some who immediately say no, but there are others who leave the possibility open and wait for many of their questions to be resolved during the pre-meeting (Professional 2)*

As a 'preparatory stage,' professionals corroborated that it is extremely important to provide extensive information to victims and offenders *"about what the restorative process is and what it is not" (P1).* Often, RJ is confused with processes where victims are encouraged to forgive or reconcile with their offenders, and this may be reason enough to refuse to participate. In this regard, Zehr (2015) remarks that even though RJ does provide a context where forgiveness and reconciliation might happen, these actions are choices that are entirely up to the participants and they should not be considered as goals of RJ.

Importance on clarifications during pre-meetings is further emphasized by the National Council of Crime Prevention (*BRÅ*) (2007 as cited in Rypi, 2017) that also considers it essential to prepare and to take the time necessary for these meetings, so that participants are prepared and that they

feel secure before the mediation session. At these pre-meetings children and young people are asked to attend with their parents or legal guardians to inform them about the process and ask them if they are interested in a restorative meeting. If so, professionals make sure the process is engaged in voluntarily (Rasmussen, 2018). In the case of victims over 18 years of age, they are also allowed to attend with companions if they deem it necessary. Some professionals agreed that victims who participate in pre-meetings, are more likely to attend a restorative meeting with the offender.

The duration of these meetings may vary, but professionals emphasized that these encounters need to last long enough to clarify what the victim and the offender consider necessary. As *P1* put it, *"both should be very prepared, and no surprises hopefully."* The professionals' perspectives on the time invested in the pre-meetings went in tandem with the works of Albrecht (2010) and Rypi (2017) developed in Scandinavia, which concluded that the more time invested in preparation, the more likely restorative meetings are successful.

When offenders and victims are willing to participate, then *"the stage is ready" (P2)* for a restorative meeting. Nevertheless, *"the possibilities of anyone giving up the process are potentially there" (P2),* since voluntariness is fundamental to the whole process. If any of the parties refuses to participate the range of options to take part in a process is reduced (Marshall, 1999).

> *A lot of people say yes and if they say no, it's not my job to convince them. Because if you are a victim of crime, why should we convince you to meet your offender? That's not right. But what we can say is that this person is not ready yet and they don't want to talk to their offender now. (Professional 5)*

From the interviews, it is clear that *willingness* is seen as pivotal element within restorative justice, but also as major challenge for professionals who implement RP. Counting on voluntary participation from victims has been identified before as a challenge by professionals in RJ. Though this could be closer to an ethical dilemma in that neither victims nor offenders should be 'convinced' to participate for the sake of the process (Jacobsson, et al., 2012; Rasmussen, 2018). In this regard, the decision-making process to participate, and the development of RJ may help to unburden the criminal justice system, but instead burden the stakeholders, especially the victims (Walgrave, 2008). RP seem to move individuals from this relatively 'comfortable' position that the traditional system offers them avoiding a direct confrontation and according to Walgrave (2008, p. 135) 'not all victims can cope with that'.

This section does not go any further in the discussion of willingness from victims which is addressed more extensively in the theme *5.3 Challenges and opportunities of restorative justice.* What is important to highlight so far, is that the findings from this study support the notion of pre-meetings stage as crucial piece for the success of the restorative meeting (Albrecht, 2010; Rypi, 2016).

5.2.1.2 A pause: "It takes time".

Another aspect that professionals repeatedly highlighted is the time that RP can take. When they talked about time, they not only referred to the concept itself understood as the weeks or months that a restorative process can take, but to the time it take for participants, *"to make a good decision, whether or not they should participate" (P6)*, for victims *"to overcome the traumatic experience of a crime" (P3)*, or the time it can take for young offenders *"to understand the rules and limits" (P3).* Another professional shared that during the mediations she has carried out it is easy to realize that *"there are a lot of things that are going on for both parties" (P1)*.

Following the discussion about statements related to time and 'things to do' in this time, it became clear that during the decision-making processes before and after pre-meetings, the possibility of victims and offenders confronting one another might trigger emotions in both. This goes along with what Rypi (2016, pp. 93-94) concludes in her study about *The Feeling Rules of Victim Offender Mediation* in Sweden, that in an 'emotion culture' of VOM "mediation clearly appears to be the practice of managing hearts". Coping with these emotions during the whole process is what actually takes time.

Rypi (2016) focuses on the emotions that emerge during mediation meetings. The findings of the present study suggest that the time the elapses between one meeting and another, especially between a pre-meeting and the restorative encounter, may also be full of emotions. These emotions in between the meetings can also influence the final decision of offenders and victims to participate or withdraw from the process. Some meaningful cases in relation to this were shared, however, the key example illustrating the importance of the time within the RJ process came from *P3:*

> *[...] it took him [the offender] a whole year to realize what he had done. But then, after a year he thought, 'okay, I am, I'm ready to meet the victim and talk to this person.' And we want that to happen long before, but he spent a year on this. This teenager wasn't ready until then. So, then these teenagers and the victim had a very good conversation, a good mediation, a good restorative meeting. And yeah, maybe that's like one of the sunshine stories that I can share. (Professional 3)*

In his work, Walgrave (2008) asserts that the process makes the offender feels a mixture of intense unpleasant emotions, such as *shame*, *guilt*, remorse, embarrassment and humiliation, which may have an enduring long term impact. Based on the findings from this study, I would also add the victims are able to feel these emotions. *Shame* and *guilt* are nodal points where Walgrave and Braithwaite (1999, p. 2) intersect their works bringing these concepts into the analysis: "The link between shame and guilt can be studied at two conceptual levels: shame as an emotion and shaming as an action". More will be elaborated on this topic at the end of the next section.

5.2.1.3 Restorative meetings: "When the magic happens".

In both VOM and YP, the restorative meetings create a space for victims and offenders to interact with one another. Even though the structure of mediation meetings may vary, one striking result from the data is how meaningful the so-called 'encounter' between victims and offenders is for the professionals.

> *For me, the restorative meeting is when two parts meet, they listen to each other's stories and then the magic happens, […] they [victims and offenders] get a wider perspective of the situation. Victims get to understand the reasoning for acting the way they [offenders] acted. My experience is that it has a rehabilitating effect on both, the victim and the offender. (Professional 6)*

According to professionals, these encounters are held in places considered safe and neutral, such as rooms at the institutional offices, police stations or facilities in social services. However, whether all of the participants perceive these places as safe and neutral, could be called into question. Further research could be deepened to find out whether offenders and victims associate them with certain expectations, meanings, or unpleasant emotions, especially after having gone through the experience of a crime.

The empirical data suggests that during these encounters, professionals find especially relevant the moments when the victim and the offender speak, usually in turns and in that sequence. Christie (2015) describes the beginning of the experience:

> The starting point is, or at least ought to be: *what happened?* Describe, in minute detail, the events [---] The purpose is not to decide on guilt or on the delivery of pain, but to help parties to see their situation, and eventually improve it. It is a place of freedom, where one might see the other as a whole person, may be also to see oneself. If I have learned anything from a long life in criminology, it is about the importance of social settings that allow people to see each other as whole persons (Christie, 2015, p. 112).

The professionals described a wide range of emotions and behaviors from victims that they perceive. From an unpleasant part showing anxiety, fear, anger, mutual resistance, to a brighter side of the experience through empathy, regret, less fear, and even a *"sense of relief from victims" (P5)* who are able *"[…] to just leave it and say this is the past" (P4)*. According to the professionals, these behaviors generally move in a spectrum from what they consider negative to positive. Reyes-Quilodran et al. (2019) confirm these findings, mentioning that practitioners of VOM in Sweden acknowledge reducing the negative consequences of a crime as one of the main goals of VOM.

As stated by the professionals, the importance of victims speaking first is that the offender is able to listen and realize the harm that has been caused. The offender can recognize the direct consequences that their action had on the victim and realize the scope of the offense. Professionals notice that it is not always easy for the parties to express themselves, therefore they play an important role facilitating the communication through open questions in such a way that *"they [victims and offenders] get a sense of being listened to and being understood" (P4).*

The perceptions of offenders' emotional and behavioral changes were also shared. The professionals found that for many offenders these encounters can represent a *"hard time" (P3)* because it represents a unique arena to listen to the consequences of their actions and recognize the feelings of the victim. The restorative encounter represents a unique opportunity to understand the severity of the damage they caused. This interaction, according to professionals, is what brings the encounter to a *"human level" (P3).*

The experience was described by one professional in such an illustrative form that it is worth bringing his full perspective:

> *Often, I've found that, people who are anxious and sometimes aggressive and they [victims] for instance say, 'I don't want to meet this idiot and he is going to have to pay for this and that!' and a long list of demands. And sometimes you have the offender downplaying their own role. […] So, you have this sometimes and it would seem like 'how is this going to go? this is going to be impossible.'*
>
> *But you find a change when they meet in the same room, which is very powerful. You can see it from when they come in and they barely look at each other, and still have this kind of aggressive look, and then through the meeting you see a change, and sometimes they give each other a hug at the end. That's quite touching. Sometimes that happened, very often I'd say. Very often you will get a profound change of the parties during the little two hours session that we have." (Professional 6)*

Walgrave (2008) corroborates these insights from professionals standing out that attention to the socio-dynamic of the meeting may help to support the theoretical suppositions of the effectiveness of RJ as prevention, rehabilitation and deterrence in crime. He invites professionals to observe participants focusing on what he calls 'the psychosocial dynamics of the meeting' such as expressions of mutual understanding, sympathy, support, regret, remorse, anger, among others. Additionally, taking care of the quality of the social climate in terms of authenticity and respect is also important. (Walgrave, 2008). Encounters like the one described above by *P6* seem to be common. Ambivalent attitudes and feelings are often part of the nature and the 'magic' in the encounter.

A slightly different way to explore participants' actions during encounters, comes from Rypi's (2016) study which pays attention and analyzes them through the concepts of 'deep act' and 'surface act'. 'Deep act' is "the efforts to change one's feelings to live up to the expectations of society or the particular situation", while 'surface act' is "the changing of one's self-presentation mainly by hiding feelings to follow the feeling rules, such as smiling to please customers or the supervisor of the company" (Hochschild, 1983 as cited in Rypi, 2016, pp. 87, 93).

Either through paying attention to the 'psychosocial dynamics of the meeting' or the 'deep and surface acts', this careful observation may allow to identify some risks related to encounters unexpectedly going wrong. Most professionals in this study identified a major risk factor: the offender retracting from accepting responsibility during the restorative meeting. Consequently, this could lead to *re-victimization*, which means that victims may feel victimized not only from the original offense, but also from their experiences during the process of seeking justice (United Nations, 2006).

> *Because you need, before you can have a plan for the future, you need to have a recognition on the fact that happened. Recognize that it was wrong. So, then if somebody denies that, "no, I never did this and that", then nobody can move to the future. (Professional 5)*

As discussed in *5.1.1 Responsibility-oriented understanding of restorative justice*, acknowledgement of responsibility is crucial for the process. The reason(s) that may motivate this switch to happen were not deeply discussed by the professionals. However, the data analysis revealed that the concept of *shame* came up in the professionals' perspectives and narratives when they referred to the aspects surrounding a genuine acknowledgment of responsibility by the offenders.

> *I would say that responsibility is the key word, and a bit of shame. (Professional 1)*

> *Because if you [as an offender] disappoint people, the shame of disappointing people is very effectful. (Professional 6)*

The way in which professionals indirectly link responsibility and shame is an interesting finding, given that this may motivate further theoretical and empirical research where restorative justice and reintegrative shaming (Braithwaite, 1989), are intersected. As presented in chapter 3, this theory conceives 'shame' as an emotion of a person caused by being disapproved in the eyes of others, while 'shaming' is seen as an action with the effect of inducing "one of the shame-related family of emotions", such as guilt, regret, embarrassment, and remorse (Walgrave & Braithwaite, 1999, p.2).

The reason for responsibility and shame to come together is because, as noted by professionals in this study, the initial acknowledgement of responsibility does not necessarily lead to a restorative process and neither does shame (Walgrave and Aertsen, 1996 as cited in Walgrave & Braithwaite,1999). Responsibility comes together with shame from 'outside' along with the guilt from 'inside', in the understanding that shame and guilt are emotions difficult to uncouple (Walgrave & Braithwaite, 1999). The two together do not necessarily lead to a restorative outcome, but they facilitate specially the beginning of the process.

The professionals acknowledge that in order to restore, the person must accept that he/she is responsible for the harm caused by feeling guilty about it. Guilt shall be conceived as "an internal evaluation of the moral value of behavior" (Walgrave & Braithwaite, 1999, p. 2). This occurs when one disapproves of one's self by one's own conscience. *Reintegrative shaming* (Braithwaite, 1989) will occur when one feels, imaginary or in actuality, disapproved in the eyes of others for the acts committed without feeling stigmatized. The professionals also recognize that disapproval from victims and community might lead the offender to connect feelings of guilt. That feeling of guilt, combined with a belief in the possibility to compensate for the offense, may awaken an internal motivation to restore (Walgrave & Braithwaite, 1999). This way, to restore victims might reintegrate offenders, taking them back into communities.

If an offender retracts from accepting responsibility, that might be risky for the restorative process and also for themselves and the victim. So, how can this be avoided? Since it is a major risk linked to the offender's acknowledgment of responsibility, which can actually make the meeting not so magical, this discussion will be fully addressed in *5.3 Challenges and opportunities of restorative justice.* On the other hand, the shame and its scope in restorative agreements will be revisited and explored further in the next section, the third and last stage identified by professionals as one of the mains.

5.2.1.4 Restorative agreements: "Along a continuum, from material to symbolic".

From the analysis of the empirical data, it can be determined that the professionals identified two general approaches to restorative agreements: *material* and *symbolic.*

> *When it comes to economical agreements, it's often a minor amount of money […] perhaps you stole a mobile phone or you ruined a store, so you will give some money for that. And then, there are some agreements that you agree to keep personal distance, for example. (Professional 1)*

The professionals gave examples of different agreements, which they considered restorative. Some agreements include actions of restitution or compensation for material losses, while in others young offenders commit to work for free during a period of time in a sort of 'community service.' Other agreements are more related to meaningful activities for young offenders, such as attending school, finding a job, receiving psychological or health attention, and other activities that may reduce the possibility of future criminal behavior.

From Zehr's (2015) approach to restoration practices, it is possible to see these variety of restorative agreements along a continuum. This means that the outcome of the process can be fully, mostly, partially, potentially or pseudo-restorative rather than simply restorative or not restorative (Zehr, 2015). Although the difference between an economic agreement and the development of occupational activities for the offender may seem different from each other, all of them fall along this continuum. The assessment to place Scandinavian restorative processes in a certain degree of restoration is beyond the scope of this study, but what can be discussed for the purposes of this research is the professionals' perspectives on the variety of agreements.

> *I would say that materially restitution is sometimes required, but of course it could be also a symbolic act, right?, so I think that if you go and work for somebody and do something for them every Wednesday for ten weeks, that is also a way of expressing your respect and apology to that person [the victim] in a way. (Professional 5)*

When it comes to material or economic agreements, the professionals observed that it is common that parents have to pay on behalf of children and young people that do not have own income. Therefore, the professionals stressed the importance of *"not leaving things at the economic level"*, as spoken about by *P2* in the interview. For that reason, the professionals emphasized looking for a reflection during the session that leads to an apology during the agreement as a symbolic and complementary act. An apology can reasonably represent a social mechanism that can potentially lead to the restoration of social relationships in a community. This is not a minor gesture and it can be crucial in a restorative process (Bottoms, 2003 as cited in Walgrave, 2008).

Reintegrative shaming theory also underlines the act of apologizing as 'the most productive element' to communicate disapproval of the act because the person with the most to gain from excusing the action -which is the offender- is acknowledging the wrongdoing. (Walgrave & Braithwaite, 1999, p. 8).

In addition to apologies, there are other symbolic or relational agreements which are considered restorative when they restore the victim, but also to the extent that they are an option that takes children and young people back to their 'communities of care', which means they are 'reintegrated' with the support of their closest networks (Walgrave & Braithwaite, 1999; Zehr, 2015). Some professionals explained the symbolic agreements as follows:

> *In a wider perspective it's also about the local community to recover some bonds, between them, the youth and the place, the neighborhood where he or she lives […] We want them to have jobs, to get a diploma, we want them to do what a youths do. (Professional 6)*

> *There is a lot of vandalism that young people participate in, they vandalize the school or a bus station or something like that. And sometimes they need to help cleaning the school or repairing something, as a way to restore. (Professional 1)*

The analysis of the empirical data revealed that what is intended with this type of agreement is that the young person restores the harm by working within the community where they committed the offense. It can be addressing the individual/ relational harm (with the offended party) or the social harm (with the community). In this regard, Braithwaite (1989) recovers in his *Reintegrative shaming* theory, the notions of attachment and commitment (two of the four aspects of the social bond) from Hirschi's (1969) control theory. From reintegrative shaming attachment is a necessary condition for effective social control. *Attachment* to parents, school and friends mainly, as the emotional connection that the person feels toward other people's opinions, feelings and expectations (Braithwaite, 1989). *Commitment* to educational and occupational goals mainly is also necessary since it can regulate criminal behavior maintaining a social bond with certain groups within the community, for example, the school, a workplace, or a sports club. As long as this commitment is a rational choice, it is possible to engage these choices in reintegrative shaming (Braithwaite, 1989).

This means that when young people commit an offense, parents, friends, or other emotionally close individuals must show affectation through disapproval of the committed offense, but not through the rejection or stigmatization of the person. The concern from the offender to repair the bonds to those individuals should concern engagement to some occupational or educational goals(s) with the support of those emotionally close individuals. These actions can be seen as restorative acts as long as the young person is committed to reaching these goals, and not to the extent that they are met or not.

It should be noted that some of the professionals also recognized that children and young people who commit certain offenses are not necessarily individuals that need to be reintegrated into their communities. One participant, underlined it as follows:

> *I think it's important to say that not all teenagers need to be reintegrated because they are very much integrated into society before they come here, a lot of them just did one silly thing […] However, when it comes to the ones who need to be reintegrated, that's our job to make sure that it happens. (Professional 3)*

This information is important since it helps to make even more sense of the restorative agreements that are directed towards symbolic and meaningful activities and actions within the community. In these cases, the restorative scope of the agreement might be to strengthen bonds rather than repair them. This could confirm Braithwaite's (2002, as cited in Walgrave, 2008) reasons to advocate for restorative justice to be used as an effective preventive measure and not only when it comes to rehabilitation and deterrence in crime.

Heading to the final theme *5.3 Challenges and opportunities of restorative justice* it is important to point out from the aforementioned finding that in Scandinavian countries crime prevention is as prioritized as prosecution (Nordic Ministries of Justice, 2000 as cited in Storgaard, 2005). Specifically, the state capacity to offer restorative opportunities to children and young people is a characteristic of the Scandinavian welfarist approach to justice (Andersson, 2014; Lappi-Seppälä, 2011; Storgaard, 2005). This state capacity, along with the participation of professionals and people from the community, give rise to the last theme.

5.3 Challenges and opportunities of restorative justice

The third and last theme captures the professionals' experiences of how elements and conditions that *permit* restorative justice may also *hinder* its practice. The *willingness* of different individuals to participate is at the core of this two-sided perspective. The sub-themes discussed below, further describe *the professionals' perspectives on the challenges and opportunities of RJ in Scandinavia.*

5.3.1 The 'three wills', the big challenge: "We have to make sure…"

Following recommendations from Walgrave (2008), in general, it is not possible to draw conclusions about restorative justice without acknowledging the differences of varying RP. General conclusions may lead to losing crucial information about essential characteristics. For this reason, before addressing challenges on this section it is necessary to mention an important difference between VOM and YP which may impact the discussion of *willingness* in this section.

As outlined in *5.1 Professionals' awareness of restorative justice*, the offenders' acknowledgement of responsibility is essential to start the process. The development of either VOM or YP depends on the offender's accountability. The professionals believe that when the offender recognizes their wrongdoing, this can result in their willingness to participate in the restorative process.

In general terms, the difference between VOM and YP has to do with what results from the willingness of participants. If a *willing* offender coincides with a *willing* victim, VOM and YP can take place. However, if a *willing* offender matches with an *unwilling* victim, VOM cannot take place, whilst YP can. Having a *willing* victim and an *unwilling* offender is an unrealistic scenario because the offender's will is what triggers the process (and the invitation to the victim to participate in the process, as discussed in *5.1.1 Responsibility-oriented understanding of restorative justice*). Of course, an *unwilling* offender together with an *unwilling* victim nullifies any possibility for a restorative encounter. Findings related to the willingness of offenders and victims as a challenging topic for professionals are presented in the next section.

5.3.1.1 The offender's and victim's will: "Finding a reason good enough to meet".

VOM and YP are optional processes. Therefore, the willingness of the victim and the offender to participate in the process is fundamental. This willingness is expressed through the explicit consent of the offender and the victim, and the professionals identified voluntariness as both a possibility and a challenge. According to the professionals, various elements can influence the consent to participate of both parties.

On the side of the offenders, consent to participate might be influenced by the clarity and availability of information about the restorative process. For example, *P4* remarked that*, "[…] we have to make sure that they have the information they need, and they understand what this restorative process actually is […]"*. Also, some professionals identified *"a lack of resources to understand all these things and give his or her consent" (P6)*. A weak offenders' physical and mental wellbeing, for instance, can influence their ability to consent to the restorative process. This is especially true when young offenders are dealing with drug consumption.

A major topic rises up from whether the voluntariness to participate in the process brings some 'legal benefits' in some way or another to the offender. In this sense, voluntariness can be questioned. As described in the literature review, in Sweden VOM is *complementary* to the criminal system (Jacobsson, et al., 2018), this means that VOM do not replace the legal process but supplement it, and the perpetrator still has to undergo a trial (Rypi, 2017). However, the prosecutor should, according to section 17 of the Young Offenders Special Provisions Act – LUL [*Lag* 1964:167 *med särskilda bestämmelser om unga lagöverträdare - LUL*] take the offender's willingness to mediate into account when deciding whether to prosecute or not. Also, according to Chapter 29, section 5 of the Penal Code (1962:700), the court can take mediation into account in their choice of sentence (Jacobsson, et al., 2018). In this context, 'take into account' refers to the willingness and the mediation itself making the process more lenient for the offender.

On the other hand, in Norway YP is an *alternative* to the criminal system (Rasmussen, 2018). This means that YP is determined by a court and if an offender sentenced to YP does not meet the conditions of the plan -to which he/she must have voluntarily engaged- he or she risks imprisonment (Holmboe, 2017). Thus, this raises the question about exactly how voluntary the offender's participation can be.

In either case, it seems that the *willingness* to undertake a restorative process may be influenced by the 'benefits' of participating. For example, the possibility of getting a lower penalty in the criminal proceeding in the case of VOM. Or having a lower risk of prison in the case of YP. The impact of the benefits of participating is a fact fully known by the professionals who participated in this research, and it actually posed an important challenge in the field. Nevertheless, discussions and alternatives about how to face this challenge are *"something that [they are] working with nowadays" (P6).*

From the professionals' perspective, when it comes to victims, the consent to undertake a restorative process might be affected by factors such as the fear to meet the offender again. Not only they are afraid to meet the offender during the restorative meeting, but also afterward in the street, neighborhood, or any other potential place where they are put at risk. Other victims may

refuse simply because they *"want to move on" (P4)* and they do not want to think about the offense again. In some cases, the professionals found it challenging *"not to convince them but to motivate them so that people consider going to the meeting" (P6).*

The professionals recognized *"real effects on both, on the victim and the offender" (P6)* mainly reflected through behavioral changes during the process. However, the professionals also acknowledged that sometimes the offenders, despite having given their consent to participate, have trouble understanding their own role within the meeting. Therefore, the professionals must *"safeguard victims" (P4)* from being re-victimized, not only during the meeting but also afterward. *"Our main challenge is for them [the victim], on their own, find a reason that is good enough to meet with their offender" (P6).*

> *In some cases, we really have to use a lot of resources to facilitate this [the restorative process], in the way that we make sure that we are also taking care of the victim of course, […] because they can be afraid to meet up later and get knocked out again. (Professional 6)*

Unlike the offenders, for the victims participating in either VOM or YP, there is no recourse that can be interpreted as an 'additional benefit' other than obtaining justice through an alternative scenario to the traditional justice system. Other potential and fruitful benefits of a restorative process are sometimes blurry at the beginning of the process. The potential offenders' reintegration into the community as responsible citizens may be, for instance, one of these benefits.

As stated before, an *unwilling* victim in VOM means that the process does not take place. However, according to the professionals, if the victim wants to mediate but does not want to meet the offender, it is possible to do an indirect mediation. This means that the offender tells the mediator what they want to say to the victim and the mediator contacts the victim with that information. Sometimes this can be done through a written letter, which the mediator sends to the victim or reads during a personal meeting or over the phone. The process can also go the other way (or both) if the victim has something to say to the offender. The professionals shared that this is not very common, but sometimes happens. Nevertheless, if the victim is not willing to mediate directly or indirectly, there is no restorative process at all and the offender will be subject only to the legal process, and to social services if required.

On the other hand, an *unwilling* victim in YP does not stop the process for the *willing* offender who still has the possibility to have a restorative meeting with their support networks. Victims are invited to attend, but if they decline the invitation, meetings can go on without them (Christie, 2015). This meeting is held between the offender, their support network, the youth coordinator and other relevant actors, such as the police and correctional and youth services. In YP the possibility to do an indirect mediation also exists. One of the professionals shared an experience where the victim, who was a minor, was unable to meet the offenders due to the fear he felt after he was assaulted. However, the minor's mother attended the restorative meeting on his behalf and met with the offenders.

> *In some cases, we have asked, for example, to the mother of the victim, 'if you can meet for your son or for your daughter'. But what we really miss in those meetings is the victims' exact words, feelings about the situation. But for me that is also a restorative justice meeting in a wider perspective. (Professional 6)*

The outcome of this meeting, according to the professional's testimony, was fruitful for both parties. In YP, participation from victims is ideally expected, but not mandatory in order to continue with the restorative process.

Follow up questions about what happens or what are the options for *unwilling* victims, either in VOM or YP, were not asked. However, the information provided during the interviews could lead to the formulation of new research questions in further studies, especially those related to the participation of victims in RP in Sweden and Norway. Further research would be relevant, especially concerning the discussion whether restorative justice as complementary (when it does not replace a legal process) or alternative (when it may replace it) is a better option. In this regard, Mestitz (2008) underlined that RJ may represent a better way to vindicate those victims who have adopted a secondary role, as opposed to youth offenders. Some RJ processes, either as an alternative or complement, have placed the reparation of victims' harm in a secondary position with respect to the primary focus on youth offenders' educational or rehabilitative needs. This might be a problematic matter that can diminish the participation of victims.

To sum up, reliable and stable willingness from offenders and victims is a challenge that professionals often face. Although, they manage to make adjustments to the RP. For example, when victims do not want to meet the offender directly, the professionals find ways so they can still participate. Further challenges have to do with enhancing a genuine and stable will from offenders, but also with fostering victim's will.

As discussed in *5.2.1.3 Restorative meetings*, it can also happen that offenders who are initially willing to participate deny responsibility for the wrongdoing during the restorative meeting. In such cases, the *willingness* to participate in the process is meaningless. This is a latent risk of re-victimization for the offended party; therefore, it is also important not to 'lure' the victim into participating for the sake of the offender (Rasmussen, 2018).

One of the problems that *reintegrative shaming* theory examines is what kind of emotions may provoke the willingness of the offender to accept to participate in restorative actions. In their work, Walgrave & Braithwaite (1999, p. 6) conclude that 'compassion via guilt' and 'gestures of reacceptance' are probably the key to provoke in the offender the willingness to do something 'to right the wrong done'. From the perspective of reintegrative shaming, it is assumed that receiving disapproval from people the offender cares about (some of them part of the support network) may reintroduce moral reasoning in them (Walgrave & Braithwaite, 1999). This in turn provokes guilt in the form of self-disapproval of acts he or she committed. This guilt may lead to a genuine acceptance of responsibility and lay the ground for a safe encounter with the victim. The encounter then brings the opportunity for the offender to feel compassion as a 'feeling together' with the victim (Walgrave & Braithwaite, 1999, p. 6). The gestures of reacceptance will come from and with the participation of the support network, all together as representatives of the community.

As can be seen, reintegrative shaming jointly with restorative justice largely relies on active responsibility. The offender's active responsibility to contribute actively to the reparation of the damage. The victim "is encouraged, but not obligated, to assume the general citizen's responsibility for trying to find peace-promoting solutions" (Walgrave, 2008, p. 97), but RJ also bets on responsible and participatory communities. Then, *willingness* from victims and communities is, to some extent, fundamental to reach a more comprehensive restorative approach for all parties. The *community will* is further addressed through the findings presented in the last part of this chapter *5.3.2 The Scandinavian opportunity.*

5.3.1.2 The political will: "Political parties need to agree that these children need chances to succeed".

A complementary part that emerged in the discussion of *willingness* as a challenge for professionals, was the need to have a legal and political ground that support their restorative justice practice. From the interviews, it could be inferred that the professionals do not consider it is possible to follow restorative justice principles and processes if there is no legal and political ground to support it. The professionals make sense of their practice departing from the enacted legislation and the *political will* that uphold restorative justice in their countries. For some participants, these elements have become fundamental to encourage or discourage restorative work. The majority of respondents believe that having a legal framework on RJ is important, but more importantly they believe it is necessary that professionals are clear about how it works. They also recognized that a legal basis ceases to be important if there is no political will to abide it.

> *Sometimes is not easy for professionals to implement restorative justice […] legislation does not seem to be enough. In order to change this, we must have politicians that are interested in restorative justice. (Professional 2)*

The reasonable request for counting on politicians has to do with the restorative activities relying on governmental institutions. Since restorative justice in Scandinavia has been adopted mainly as a public response for 'juvenile delinquency' (Andersson, 2014), the request to have a solid legal and political ground for the restorative practice has a central axis: the well-being of children.

> *The kids we get to know are kids with a problematic backgrounds and lack of resources […] we know that imprisonment of young offenders is not the way to reintegrate them into society. That's a fact. So, I think that political parties need to agree on the fact that these children need chances to succeed." (Professional 6)*

Some participants highlighted that the integration of restorative justice into the current justice systems is seen as *"progressive" (P5)* or *"outstanding" (P4).* Other professionals added that to rely on *"enthusiastic and passionate professionals" (P2)* without adequate political support to develop restorative activities, means to remain working with the *"ideological" (P2)* part of RJ. This is an important finding in light of the first conceptions of RJ from Zehr (1990) that were far from embedding restorative justice into retributive justice framework. "Some academics actually pointed out that this could actually undermine the ideology of restorative justice as a 'counter-reaction' to the traditional system" (Fornes, 2012, p. 120). Even though RJ was thought as an opposite to the traditional justice system, nowadays RJ in Scandinavia could be seen as taking the

best part of two systems. (Fornes, 2012). This may create a better option in the treatment of young offenders when looking for a balance between a system that already exists and another that is being promoted from the local policies and legislation.

From the findings, it seems that the professionals see political support and political will as challenges. They represent not only the impulse of the current legislation, but the allocation of human and material resources for the development of restorative activities. "Volunteer groups can be organized or coordinated from the top only with difficulty, whereas this is easier with public servants and groups such as police and social services" (Mestitz, 2008, p.38).Conclusions from Mestitz (2008) coincide with perspectives from professionals in this study who stated that a coordinating institution or agency is important for the kind of service they can offer.

Follow up questions regarding the implications of bringing restorative justice under the coordination of a single institution were not discussed with the participating professionals. However, it should be remembered that, while VOM in Sweden is complementary to the legal process and it is coordinated under municipalities, YP in Norway is seen as an alternative and it is actually embedded within the criminal system and it has the Conflict Councils as national coordinator. Implications for participants and the scope of these political/administrative features on them could be the ground for new research activities.

The national and local political challenges that Sweden and Norway may face in the criminal and restorative policy field are out of the scope of this study, however, the general perspectives that professionals shared open the possibility for further discussion on the topic.

5.3.2 The Scandinavian opportunity: The exceptional community will.

Up to this point, the findings reveal that there is a fundamental role of victims, offenders, professionals, and even political parties that permit restorative justice processes to be carried out in Scandinavia. Additionally, the findings show that there is another component without which restorative practices in this region could not exist. This has to do with what I would call the *community will* as the 'opportunity' that enables the implementation of restorative justice with children and young offenders in Scandinavia.

From the analysis of the empirical material, it is possible to say that restorative justice in Sweden and Norway largely relies on the community sense. This sense of community emerges from the 'cultures of equality' and the welfare state which Pratt (2008) identified as part of the *Scandinavian exceptionalism* thesis that analyzes low rates of imprisonment and humane prison conditions, (Pratt, 2008). It is possible to say that some of the concepts that illustrate this equality and welfare such as *'likhe'* as 'equality and sameness' and the Swedish concept of '*folkhemmet'* as the 'caring society', are also present in the practice of RJ.

> *We have these mediators who are not regular professionals. They are people who have other jobs and who do this [mediation] on their spare time. They get a little bit of paid for it, but not much. It's considered more of a kind of civic duty […] but it's not their job. (Professional 5)*

The participation of layman mediators might be the most explicit example of this caring society. This is an act of solidarity, contributing their time and interest to the practice of restorative justice. The sense of equality and sameness can be seen in the way that this layman practice helps collective rather than individual interests. Thus, contributing to the peacebuilding work in society (Pratt, 2008; Walgrave, 2008).

The caring society identified in this study and highlighted by Pratt (2008) as a characteristic in Scandinavia coincides with the 'communities of care' (Zehr, 2015) that RJ has tended to focus on. Through RP, the young offender is supposed to be taken back to these places that represent social care. Prior to the crime, the individuals in these places may not have attended adequately the needs of these offenders.

It is also possible to identify how professionals recognize the value and importance of their work to the promotion and implementation of restorative justice. At the same time, they also recognize collaboration with other actors in the community as necessary in order to achieve comprehensive restorative outcomes. These actors seem to be represented by the aforementioned caring community of which the professionals also take part.

> *There are some professionals who can be described as, what we call 'eldsjäl / ildsjel', "fire souls" who are passionate about trying to get others to understand the value of embracing more restorative ideas. (Professional 2)*

The involvement of the community has been understood as the involvement of the support network made by family, friends, teachers, mentors, the police, and social services (Rasmussen, 2018). All these individuals together with the professionals who handle RP are considered part of the community. As stated by Walgrave (2008, p. 77), "in restorative justice, community is an icon […] in which exchanges can take place in order to repair the victim's harm, reintegrate the offender and restore community relations." On various occasions, the professionals clearly named who those supportive figures taking part in the process are:

> *I would say that most of the of the youth I've been working with, they have their parents who do a great job and they do have good friends and they do have a supportive school or job and activities. (Professional 3)*

According to Walgrave (2008, p. 97), restorative justice largely relies on and stands for "responsible collectivities, bound by obligations to search for socially constructive responses within the rules of law". In the context of this study, this means that in Scandinavian RJ, the community is expected to have the capacity to re-establish social relations through the participation of the community members, hence a willing community is required and the social and political characteristics as a background (such as the aforementioned *likhet* and *folkhemmet*) help in the development of this capacity.

The results of this study show that professionals perceive most of the time that they are supported by a willing community during the RP. The participation and willingness from mothers, fathers, friends, neighbors, teachers, mentors and the professionals themselves, is something that they can count on. Compared to the aforementioned offender and victim will, the professionals hardly

questioned whether the victims' and offenders' communities would participate in the restorative process. Participation from these individuals is almost taken for granted from the perspective of some professionals. This could be related to the high levels of social cohesion that can be illustrated through the concept of the Norwegian custom of *dugnad* that refers to a "broad range of mutually reciprocated, taken-for granted neighbourly activities and support" (Pratt, 2008, p. 125).

> *When you have a meeting, you will have the presence of parents or family or adult friends. They can take part of the pre-meetings and the restorative meetings. So, in that sense, other parties get involved in the process. (Professional 4)*

> *All the parts start to look at the background, the reasons why this action happened and what went wrong here and there, and how can we all try to deal with this. (Professional 5)*

The responsiveness from the Scandinavian society indicates a unique opportunity for the strengthening and implementation of restorative practices. The participation of different people such as parents, friends or school members seems to have its roots on the developed community capacity of responding to young offenders (rather than to the offense) which is also part of the *exceptional* Scandinavian justice system or what it is referred in *Chapter 2* as the *Scandinavian welfarist approach to justice*.

According to Pratt (2008), these *welfarist* approaches and the egalitarian cultural values might also be an outcome of other features in these countries such as their geography and political division. To date, *kommuner* (municipalities) are the smallest political organization unit in Scandinavia. The origins of this organization are grounded prior to the 19th century, when the sparsely populated communities in Scandinavia led to an economic life based on small units that tended to have equal social conditions and 'a good deal of autonomy' (Pratt, 2008, p. 124). It seems that, from their origins, communities in Scandinavia had the conditions necessary to foster a solid sense of solidarity and cohesion reinforced by other economic and political facts that led them to strengthen cultures of equality.

From a broader perspective, it is possible to say that that this geographical and political factor has also impacted, to some extent, restorative practices in the region, but also it has also caused some characteristics of the youth justice system. In Norway, for instance, the decision to create a separate justice system for children has been influenced even by geographical aspects. "By the specific topography of Norway, with many small local communities [356 to the date (*Regjeringen*, 2020)] separated by mountains, and by the specific Norwegian pragmatic legal culture that has not favored specialization" (Grøning & Sætre, 2019, p. 193). However, the small size of communities and the relatively low population in some of them are features that might be seen as positive factors to foster a sense of community and community will for restorative practices in the region. In this regard, Swedish rural areas, for example, cover approximately the 80% of the municipalities, which means that the population in 230 of 290 municipalities is less than 20,000 inhabitants (*Sveriges Kommuner och Regioner,* 2020).

Additionally, places with relatively low population density and high levels of equality and sameness do not have the need for dramatic punishments as a way of reaffirming ruling class power (Pratt, 2008). This is because the class gap is reduced and therefore, the need to reaffirm class

power is also likely to be less (Hay et al. 1975; Foucault 1977 as cited in Pratt, 2008). Restorative justice that has tried to keep away from an idea of punishment may have found in *Scandinavian exceptionalism* a unique opportunity for its development and implementation as an optional process of doing justice.

To conclude this chapter, I must recall the words from Crawford (2002, p. 138) who states that "communities are not always heavens of reciprocity and mutuality nor are they the utopias of egalitarianism, that some might wish". Not necessarily all communities in Norway and Sweden are places for egalitarianism and good restorative justice practices, simply because they belong to a region that historically has fostered these practices. As in all social matters, it is not possible to make absolute statements and assume that all the communities, all the families, the friends, the teachers, the whole police body or the whole system of professionals and social services represent an area of opportunity in Scandinavia as willing communities. Nonetheless, in the words of the six professionals who participated in this study it is clearly stated that in order to work from RJ perspective in Scandinavia, the involvement of several individuals is necessary. Having people and communities that believe, trust and participate to make another alternative of doing justice possible, is essential.

> *Not every municipality is working with it [restorative justice], but we have everything that we need to really work with youth criminality in this matter. (Professional 1)*

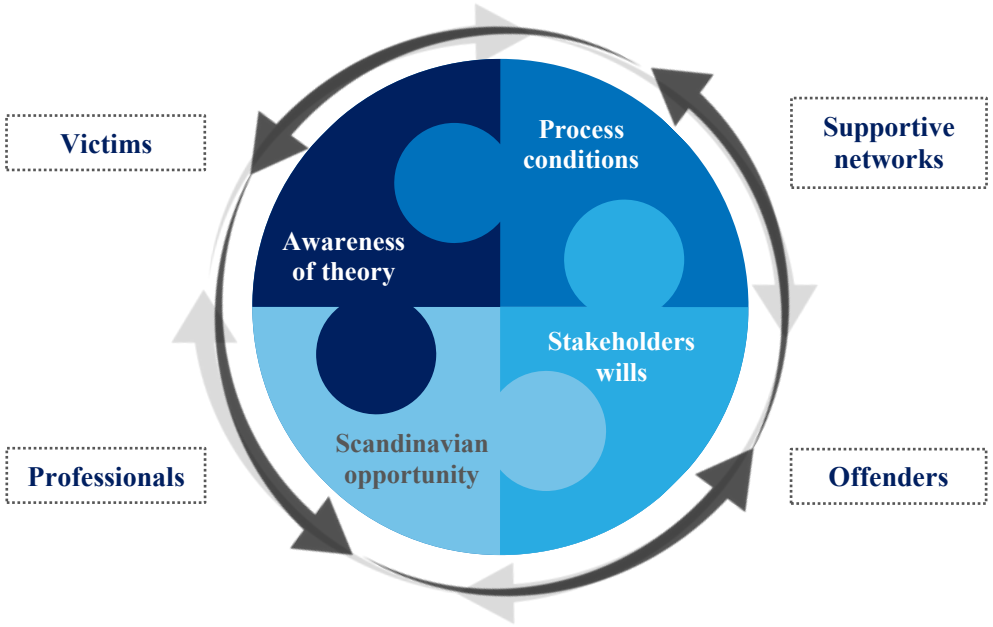
Through the present research project is possible to see that Scandinavia and some of its *exceptional* elements and conditions have allowed the implementation of restorative justice in the region. The *exceptional* community will represent an essential part that enable the implementation of restorative justice with children and young offenders in Scandinavia.

CHAPTER 6. FINAL DISCUSSION AND CONCLUSIONS

The overarching purpose of this study was to explore *the elements and conditions that enable the implementation of restorative justice with children and young offenders in Scandinavia.* Going back to the analogy of the puzzle, based on the findings I suggest that four key pieces need to be acknowledged. These pieces could be named: awareness of theory, process conditions, the stakeholders' wills, and the Scandinavian opportunity. In this puzzle, offenders, victims, professionals and supportive networks, coexist in dynamic relations of mutual interdependency. *Model 3* provides a schematic summary of this general conclusion.

Model 3

Implementation of restorative justice with children and young offenders in Scandinavia



The four pieces fit together as essential components whose interactions are necessary for practicing RJ in Scandinavia.

Awareness of theory concern the command of theoretical concepts, legal and practical knowledge that the professionals have on Restorative Justice. This piece allows them to implement processes characterized by approaches focused on the best interests of children and their rights. For instance, the professionals' acknowledgement of *responsibility from offenders*, the focus on *needs of the children and young people,* and the recognition of *participation of victims and the community* as an important element for the development of restorative practices.

Process conditions are those that the professionals identified as conditions to be met during the practice that allow them to develop different stages of restorative justice under favorable conditions for the stakeholders. These conditions have to do with *well-developed pre-meetings*, the use of *reintegrative shaming* strategies during 'the encounter' the *participation of meaningful people for the offenders*, and to reach *comprehensive restorative agreements.* Ideally, the restorative outcome will also impact offenders and their reintegration into their communities, considering this as a benefit for the community as a whole.

Stakeholders wills are compounded of socio-participatory elements that are considered by professionals as necessary for the implementation of restorative justice. The *offender's, the victim's and the political will* are identified as the main elements whose lack may represent a challenge that make the puzzle pieces not fit eventually. The gaps that come up when any of the stakeholders is not willing to participate, have been solved in different ways in VOM and in YP.

Furthermore, the **Scandinavian opportunity** characterized by *community will*, *lenient justice systems* and a more *humanitarian criminal policy* is a piece that provides ideal socio-political conditions to implement restorative practices in the region.

Professionals, offenders, victims, and support networks are interdependent in this puzzle. At the same time, their participation and interaction are elements that set up the conditions necessary to implement RJ. From these findings, some practical implications for offenders, victims, communities and professionals are suggested further.

Recommendations and practical implications

⊕ Socio-ethical discussions and studies of responsibility in RJ from victims' perspectives are important. Not least the dilemma that restorative practice may raise when proposing a 'shared responsibility' between two parts, when one of them is a victim of a crime, should be acknowledged. This idea of 'responsibility from the victim' brings an ethical discussion, even if this responsibility refers more to a citizen's responsibility in which victims are invited to participate, in the construction of more peaceful and resilient societies. What are the victims' positions on their own participation within restorative processes with young offenders?; Why do they decide to participate and especially why they decide not to participate?; Are there cases when victims have felt pressured to participate?; Is there any special motivation to participate when the offender is young? Future studies should address these questions that could inspire new approaches. Such research may be useful for other professionals, governmental and non-governmental organizations examining the field.

⊕ Future studies should address the possibility for offenders and victims to further guarantee their access to restorative processes regardless of the will of the direct counterpart. Currently, Norway has been able to carry out Youth Punishment without the participation of the main victim or the participation of representatives. Moreover, Sweden has assisted victims' participation through 'indirect mediation' when they do not want to meet directly with the offender but do want to participate in the process. How more 'flexible' processes, in terms of access to participation, can be created?; How could stakeholders, specially victims and offenders, remain interrelated without fully depending on each other? How could it be possible for victims, offenders and even communities to access the benefits of a restorative process, without necessarily depending on each other's willingness?

'Surrogate programs' such as the Sycamore Tree Project® (Centre for Justice & Reconciliation, 2020; UNODC, 2019) which is an in-prison program that brings together victims and unrelated offenders is an example of an 'adapted' alternative to do restorative processes. This program is carried out in adult prisons in more than thirty countries worldwide, including Bolivia, Colombia, USA, Australia, The Netherlands and Germany and "here, offenders meet with victims of other crimes to gain a greater insight into the kind of harm they have caused their victims, and to process their experience together with other offenders" (UNODC, 2019). Willing offenders, victims and also willing communities could receive the benefits of a restorative encounter. Again, due to the elements and conditions that Scandinavia already has, it is a region that certainly could undertake new initiatives in the field of restorative justice with children and young offenders.

⊕ Based on the findings from this study some practical implications for the social work field and its professionals could be provided. These implications have to do with restorative justice as an arena where social workers could contribute more from their area of knowledge. Some of these professionals, as it could be seen in this study, do not necessarily have a formal social work background, however the social work that is carried out by undertaking restorative processes is evident. They work directly with the support networks of the children and young people. Such a task would be difficult to carry out without social work as a background. Nonetheless, it strikes the attention that most of the available academic sources (in English) and research on restorative justice in Scandinavia comes mainly from other social disciplines such as criminology and the legal field. Expanding the research to the social work field in order to integrate stakeholders' perspectives to enhance their willingness to participate within the processes may allow different perspectives and approaches that enhance the current practice. Further exploring the experiences of social workers with these stakeholders in restorative processes may bring a complementary social perspective to the existing body of literature in Scandinavian restorative justice.

⊕ The last recommendation is related to future research that should include the perspectives of all the participants. This could be challenging since it implies a broader approach to restorative processes, but a more comprehensive vision of the experiences in processes may bring valuable information into the field. Publishing in English, the future and the existing research, could be beneficial for a broader scope and spread of the Scandinavian experience.

Finally, the limitations of this study need to be mentioned. The first has to do with the discussion that may arise towards the differences between VOM and YP as different processes coming from different countries. During this research, differences between Sweden and Norway's systems were

noted. However, since the objective was not to carry out a comparative study, I tried to emphasize the regional approach to RJ more than the national approaches. This study focus was not easy to maintain since working with information coming from two countries avoiding comparisons is not an easy task. This 'regional and non-comparative' way to conduct the research was a deliberate decision and possibly it can be seen as a weak point.

Secondly, there are some legal aspects that certainly impact restorative justice as an alternative way to face youth crime. There are some legal debates about whether restorative justice should be an *alternative* or *complement* to the criminal youth justice systems, or the big question about to what extent *material-economic* or *symbolic-relational* agreements truly represent 'justice' for victims. These topics can be addressed from several perspectives, but the legal angle seems to be crucial in order to better understand Scandinavian practices. A broader knowledge about the Swedish and Norwegian criminal justice systems may add other nuances to the findings. The review of the historical-political background and the legal framework in each country tries to compensate this gap, however it is recognized that full knowledge of the legal field in these countries may have impacted this research with a more holistic analysis and presentation of the findings.

Last but not least, some specific limitations of the method should be noted. The constraining sample size for representativeness of the region, the unanticipated switch and adaptation for the data collection via online interviews, as well as the gaps on the interview instrument and the manual analysis of the empirical information obtained through the interviews, may limit this study. Future researchers interested in restorative justice in Scandinavia could revise their specific methods for collecting data in order to address these missing parts. Restorative justice as a research field has endless possibilities and it remains an alternative path worth exploring. The experience of Sweden and Norway can shed much light along the way.

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APPENDIX

Appendix 1. Articles and provisions in Swedish and Norwegian legal framework aimed at children/young offenders

(Back to Chapter)

Legal framework for child justice in Sweden
Articles and provisions aimed at child/young offenders

Swedish Law	Provisions
Penal Code **[*Brottsbalk*] (1962: 700)** https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/brottsbalk-1962700_sfs-1962-700	**Chapter 1 § 6** For crimes committed by someone before he or she is fifteen years may not be sentenced. **Chapter 29 § 5** In the measurement of punishments, in addition to the criminal value of the offense, the court must take into account a reasonable amount of [---] if the accused has tried to prevent, remedy or limit harmful effects of the crime, **Chapter 32 § 1** Anyone who is under the age of twenty and who has committed a crime may be sentenced to youth care if he or she has a special need for care or other measures under the Social Services Act (2001: 453) or the Act with special provisions on the care of young people (1990: 52) and such care or remedy can be provided to the young person. The care and measures shall be aimed at counteracting the unfavorable development of the young person. **Chapter 32 § 5** If someone has committed a crime before he or she turns eighteen and finds the right with application of Chapter 30. that the penalty should be determined to prison, it should instead determine the penalty for closed youth care for a certain period of time. However, this does not apply if, given the age of the accused at the time of the prosecution or other circumstances, there are special reasons. The court may set the time for closed youth care to a minimum of fourteen days and a maximum of four years. Provisions on enforcement can be found in the Act on the implementation of closed youth care – LSU (1998: 603)

	Common Rules § 13 If a crime has been committed by someone who has not reached the age of fifteen […] the court may decide on the forfeiture of property or other special legal effect that may follow from the crime.
Code of Judicial Procedures [*Rättegångsbalk*] (1942: 740) https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/rattegangsbalk-1942740_sfs-1942-740	**Chapter 23 § 9** Anyone under the age of fifteen is not required to stay for interrogation for more than three hours. If it is of particular importance to the investigation, the hearer is required to remain for another three hours.
Act with special provisions on the care of young people [*Lag med särskilda bestämmelser om vård av unga*] (1990: 52) https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-199052-med-sarskilda-bestammelser-om-vard_sfs-1990-52	**§ 1** Interventions in the social services for children and adolescents shall be made in agreement with the young person and his or her guardian in accordance with the provisions of the Social Services Act (2001: 453). The efforts must be characterized by respect for the young person's human dignity and integrity. However, a person under the age of 18 shall be provided care under this Act if any of the situations specified in § 2 or 3 exist and it can be assumed that necessary care cannot be given to the young person with the consent of the person or persons who have custody of him or her and, when the child has reached the age of 15, by him or herself.
Young Offenders Special Provisions Act – LUL [*Lag med särskilda bestämmelser om unga lagöverträdare - LUL*] (1964: 167) https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1964167-med-sarskilda-bestammelser-om-unga_sfs-1964-167	**§ 4** A preliminary investigation against a person who has not reached eighteen years of age and which relates to crimes in which imprisonment may follow shall be conducted with special urgency […] **§ 5** If a person who has not reached the age of eighteen is reasonably suspected of a crime, the guardian or anyone else who is responsible for the young person's care and education and anyone else who has a nurturing role in relation to the young person shall immediately be notified and called for a hearing to be held. with the young. **§ 7** In case of interrogation with a person who has not reached eighteen years of age and who is suspected of a crime which imprisonment may follow, representatives of the social services shall be present.

Act on the implementation of closed youth care – LSU **[*Lag om verkställighet av sluten ungdomsvård – LSU*]** **(1998: 603)** https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1998603-om-verkstallighet-av-sluten_sfs-1998-603	**§ 1** This Act concerns the enforcement of closed youth care in accordance with Chapter 32. § 5 of the Criminal Code. The implementation of closed youth care must take place at special youth homes as referred to in section 12 of the Act with special provisions on the care of young people (1990: 52).
Social Services Act **[*Socialtjänstlag*] (2001: 453)** https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/socialtjanstlag-2001453_sfs-2001-453	**Chapter 5 § 1c** The municipality shall ensure that Mediation Act (2002: 445) can be offered when the crime has been committed by someone who is under 21 years of age. **Chapter 12 § 8** If a court has sentenced someone to youth care or to youth service, the Social Committee shall notify the prosecuting authority if it can be presumed that there are conditions for action pursuant to section 30 b of the Act (1964: 167) with special provisions on young offenders or chapter 32. § 4 of the Criminal Code.

Legal framework for child justice in Norway
Special articles and provisions aimed at child/young offenders

Norwegian Law	Provisions
Penal Code **[*Straffeloven*] (1902)** https://lovdata.no/dokument/NLO/lov/1902-05-22-10/KAPITTEL_1-4#%C2%A741	**Chapter 8 § 52a Conditions for sentencing juvenile punishment** Youth punishment with a juvenile grand meeting and youth plan pursuant to Chapter IV of the Conflict Council Act] (2014) can be sentenced instead of a prison sentence when: a) the offender was under 18 at the time of action; b) the offender has committed repeated or serious crime; c) the offender consents and resides in Norway; and d) the consideration of the purpose of the punishment does not speak heavily against a reaction in freedom. **§ 52b** Implementation time and subsidiary prison sentence **§ 52c** Violation of conditions for juvenile punishment
Sentences Act **[*Straffegjennomføringsloven*] (2001)** https://lovdata.no/dokument/NL/lov/2001-05-18-21/KAPITTEL_5#KAPITTEL_5	**Chapter 3 § 10a Special rules for young inmates** When someone under the age of 18 is put in prison, the stay should be organized according to their needs. Units created specifically for inmates under the age of 18 should have an interdisciplinary team that will address the needs of young people during the execution of the sentence and prepare the time after release. The Prison and Probation Service provides supplementary provisions on prison requirements applied to prisoners under the age of 18, employee training requirements, and the composition, function and duties of the interdisciplinary team.
The Criminal Procedure Act **[*Lov om rettergangsmåten i straffesaker*] (1981)** https://lovdata.no/dokument/NL/lov/1981-05-22-25	**§ 69.** Although criminal charges are considered proven, the prosecuting authority may, when special reasons so warrant, fail to prosecute the action. Prosecution may be granted on the condition that the accused in the probationary period does not commit any new criminal offense. The probation period is two years from the date it is decided to waive the prosecution, but no longer than the limitation period for the access to file a criminal case for the action. For defendants who were under the age of 18 at the time of action, the probationary period may be set at 6, 12, 18 or 24 months. **§ 96.** During the main hearing, the accused must have a defender. [---] Where the defendant was under the age

	of 18 at the time of the action and there are questions about imposing unconditional custodial sentences, social penalties or juvenile sentences, the defendant must always have a defender. **§ 161 a.** When the accused was under the age of 18 at the time of the action, a personal investigation may be carried out for minors, under the same conditions as in section 161 first paragraph. If a case is brought against the minor, such a personal investigation must always be conducted before the case is tried, unless it is obviously unnecessary or the case concerns unresolved submissions and prosecution omissions brought before the court. **§ 249. The** issue of prosecution shall be decided as soon as the case is adequately prepared for it. If a suspect was under the age of 18 at the time of the action, the question of prosecution shall be settled within 6 weeks after the person is considered to be a suspect in the case. However, the case may be decided later if the need for investigation or other special reasons so requires.
Guardianship Act **[*Vergemålsloven*] (2010)** https://lovdata.no/dokument/NL/lov/2010-03-26-9	**Chapter 1 Introductory provisions § 2 Definitions** By persons under guardianship is meant: a) persons under the age of 18; b) […] persons who have reached the age of 18 and who are not wholly or partially deprived of legal capacity.
Human Rights Act **[*Menneskerettsloven*] (1999)** https://lovdata.no/dokument/NL/lov/1999-05-21-30	**§ 1** The purpose of the Act is to strengthen the position of human rights in Norwegian law. **§ 2-4** The following conventions shall apply as Norwegian law insofar as they are binding on Norway […] 4. United Nations International Convention of 20 November 1989 on the Rights of the Child […]
Child Welfare Act **[*Barnevernloven*] (1992)** https://lovdata.no/dokument/NL/lov/1992-07-17-100	**Chapter 4 Special measures** **§ 4-24 Placement and detention in an institution without your own consent.** **§ 4-25 The procedure for decisions pursuant to § 4-24.** **§ 4-26 Detention in institution on the basis of consent.** **§ 4-27 Investment alternatives for decisions on special measures for children and adolescents with severe behavioral difficulties, cf. Sections 4-24 and 4-26** **§ 4-28 Follow-up and action plan**

Appendix 2. Invitation to the study

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UNIVERSITY OF GOTHENBURG

To (Institution/Organization/Professional's name)

In fulfilment of your requirements for conducting research at (Institution/Organization), Nancy Gutierrez Olivares, a master student at the University of Gothenburg, European Master in Social Work with Families and Children, would like to ask permission to conduct (number) interviews for her research study entitled *'Piecing the Puzzle: Restorative Justice with Children and Young Offenders in Scandinavia, an Interview Study with Professionals.'*

The student would appreciate this opportunity to know in depth professionals' perspectives on restorative justice processes, and their experiences working with children and young people. The interview(s) is(are) expected to last about one hour and will be conducted in English.

We would very much appreciate if Gutierrez Olivares could get in contact with you at (Institution/organization name) in the following weeks. Any date in (month) 2020 will be ideal. Rest assured that the collected data will be managed under the confidentiality and data protection regulations required. Anytime we will provide more information about the study.

For further information about the ongoing research feel free to contact me as the supervisor.

Sincerely,

Elisabeth Punzi
Lic psychologist, specialist in neuropsychology, specialist in clinical psychology
PhD, Associate professor
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Appendix 3. Information of the study

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To (Institution/Organization/Professional's name)

My name is Nancy Gutierrez Olivares and I am currently writing my master's thesis titled *'Piecing the Puzzle: Restorative Justice with Children and Young Offenders in Scandinavia, an Interview Study with Professionals.'* This project is aimed at knowing professionals' perspectives on the elements and conditions that enable the practice of restorative justice with children and young offenders in Scandinavia. The project is carried out from the Faculty of Social Work at Gothenburg University.

In my master's dissertation, I will examine, from a theoretical and practical point of view, the field of restorative justice and processes that involve children and young people in restorative practices in Sweden and Norway. As a researcher I depart from the conception of *restorative justice* as an optional process of doing justice that departs from the essential understanding of *crime* as a violation, either of people or community. In this way, crime goes further just lawbreaking and it should be handling crime further what the current criminal justice systems provide us.

Restorative justice as a process, is often seen as a particularly well-suited approach when the offender is young since the emphasis is not on take punitive measures against the offender, but to face the consequences of the offense and take responsibility for them.

The purpose of the interviews is to gain knowledge from professionals' perspectives on the elements that have allowed the implementation of restorative justice with children and young offenders in Sweden and Norway. For this study, it will be essential to delve into the perception of professionals, such as social workers, sociologists, criminologist and legal experts, with practical experience working with children and young offenders from restorative approaches.

All personal information and data the participants provide will be transcribed and stored in secured/ password protected devices. All responses within the interview study will be processed so that unauthorized persons cannot access them. All the names will be changed to pseudonyms; therefore, participants would not be directly recognized in the publication. The research project planned to be completed by June 2020. Recordings and transcripts would then be kept after the report has passed the examination. The study's results will be published in a master's dissertation.

Nancy Gutiérrez Olivares (tel.: +351911940333 / e-mail: gusgutna@student.gu.se) wants to make it clear that participation in the research project is voluntary and that, at any time, without any specific explanation, you have the right to withdraw.

For further information about the ongoing research feel free to contact Prof. Elisabeth Punzi (tel.: +46317865740 / e-mail: elisabeth.punzi@socwork.gu.se**)** as the supervisor of this project.

Appendix 4. Informed consent

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To (Institution/Organization/Professional's name)

The following is a presentation of how the data collected will be used and managed for the purpose of the study.

The research project is a part of the student's education in the International Masters program in Social Work at the University of Gothenburg, Sweden. In order to insure that the project meets the ethical requirements for good research, the student promises to adhere to the following principles:

- Interviewees in the project will be given information about the purpose of the project.
- Interviewees have the right to decide whether he or she will participate in the project, even after the interview has been concluded.
- The collected data will be handled confidentially and will be kept in such a way that no unauthorized person can view or access it.

The interview will be recorded as this makes it easier for the student to document what is said during the interview and also helps her in the continuing work with the project. During the analysis some data may be changed so that no interviewee will be recognized. After finishing the project the data will be destroyed. The data will only be used in this project.

You have the right to decline answering any questions, or withdraw from the interview any time you determine.

You are welcome to contact the student or the supervisor in case you have further questions.

Student

Nancy Gutiérrez Olivares
Master's student
Department of Social Work
University of Gothenburg
gusgutna@student.gu.se

Supervisor

Elisabeth Punzi

Lic psychologist, specialist in neuropsychology, specialist in clinical psychology
PhD, Associate professor
Institutionen för socialt arbete
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Interviewee

_____

(Signature and Name)

Appendix 5. Declaration of consent

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I have been informed about the purposes of the study and the use and management of the collected data from the interview.

I have been given the opportunity to ask questions and have them answered.

I have been informed of the right to decline answering any questions or withdraw from the interview any time I determine without giving reasons.

I hereby consent to participate in the study.

Interviewee

_____

(Signature and Name)

Contact information:

Student

Nancy Gutiérrez Olivares
Master's student
Department of Social Work
University of Gothenburg
gusgutna@student.gu.se

Supervisor

Elisabeth Punzi

Lic psychologist, specialist in neuropsychology, specialist in clinical psychology
PhD, Associate professor
Institutionen för socialt arbete
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Appendix 6. Interview guide

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Introduction

I would like to thank you for your time and participation in this study. I would also like to remind you that you can withdraw from the interview any time you wish, and you may also skip answering questions if you find them inappropriate. With your permission, I would like to record the interview as it facilitates the process of data analysis. All the data is confidential, and it will be used exclusively for research's purposes. Can we proceed with the recording?

Questionnaire

1. Could you please introduce yourself, describe your professional background and your current position at the Institution? How many years have you been working in the field?
2. What does "restorative justice" mean to you?
3. From your perspective, what is the main component that differentiates restorative justice from traditional justice?
4. How would you define a "child or young offender"? Have you identified common characteristics in children or young people who commit crimes?
5. How do you think the laws concerning restorative justice in (Sweden/Norway) have influenced your work with Victim Offender Mediation / Youth Punishment?
6. How do you implement Victim Offender Mediation / Youth Punishment?
7. From your perspective, who are the individuals that should, ideally, take part in the process?
8. Do you remember any meaningful or "successful" process when working with Victim Offender Mediation / Youth Punishment? Would you share it?
9. Have you ever worked or known about a case that has not been completely successful? What, in your opinion, would have changed the result?
10. In your opinion, what are the opportunities in the (Swedish/Norwegian) implementation of restorative justice with children and young offenders?
11. From your perspective, what are the current challenges when working from restorative approaches with children?
12. Overall, what are the key elements that allow you, if so, to implement of restorative justice in (Sweden/Norway)?

Closure

This was the last question. Is there something you would like to add?
I want to thank you for your time and the valuable information you have provide to this research.

This thesis is part of the Erasmus Mundus Master's Program in Social Work with Families and Children, MFAMILY.